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Agenda item 75 (a)
Oceans and the law of the sea

Letter dated 6 December 2012 from the Permanent Representative of Viet Nam to the United Nations addressed to the Secretary-General

Upon instructions from my Government, I have the honour to transmit herewith the report on the implementation by Viet Nam of the 1982 United Nations Convention on the Law of the Sea as a responsible party to the Convention, on the occasion of the commemoration of the thirtieth anniversary of its opening for signature (see annex).

I should be grateful if you would have the present letter and the annex thereto circulated as an official document of the sixty-seventh session of the General Assembly, under agenda item 75 (a).

(*Signed*) **Le** Hoai Trung
Ambassador Extraordinary and Plenipotentiary
Permanent Representative

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Annex to the letter dated 6 December 2012 from the Permanent Representative of Viet Nam to the United Nations addressed to the Secretary-General

Report on the implementation by Viet Nam of the 1982 United Nations Convention on the Law of the Sea as a responsible party to the Convention

The United Nations Convention on the Law of the Sea was signed by 107 countries 30 years ago in Montego Bay, Jamaica, marking an enormous success of the third United Nations Conference on the Law of the Sea. The adoption of the Convention fulfilled the desire and expectations of the international community for a fair international legal framework related to all issues on the sea and the oceans, including the seabed and the subsoil of submarine areas. The process of negotiating the Convention took years to be concluded through the efforts of over 150 States and international organizations, including non-governmental organizations. To date, 164 States are parties to the Convention. The Convention not only sets out the rights and obligations of coastal countries, but also ensures the rights of landlocked countries to access to the sea and the oceans. That is why the Convention has been accepted by such a large number of States, including landlocked ones. The Convention laid the foundation for the establishment of a new legal order for issues related to the sea and the oceans. The content of the Convention comprehensively covers all sea-related areas, taking into account the interests of all States in the world, be they developed or developing, large or small, coastal or landlocked.

Since its entry into force on 16 November 1994, the United Nations Convention on the Law of the Sea has become an important legal basis for regulating maritime issues as well as an important legal instrument for settling and dealing with sea-related disputes. That is why the Convention is considered to be the "Constitution for the oceans". Throughout its 30 years of existence, the Convention has been applied in a rather effective manner in settling prolonged complex disputes and has helped to avoid potential conflicts.

As a country with 3,260 km of coastline, Viet Nam has a significant interest in the sea. Aware of the importance of the sea, Viet Nam actively participated in the process of negotiating the United Nations Convention on the Law of the Sea and has made considerable efforts in implementing the Convention. It always upholds the purposes and objectives of the Convention.

Before the adoption of the United Nations Convention on the Law of the Sea, Viet Nam actively applied relevant provisions of international law to develop its legislative documents relating to the sea. In conformity with the progressive trend of international maritime law, Viet Nam promulgated its Declaration on the Territorial Sea, Contiguous Zone, Exclusive Economic Zone and Continental Shelf in 1977, establishing an exclusive economic zone of 200 nautical miles and extending the rights of Viet Nam to the sea to include not only fishing rights, but also other sovereign rights and jurisdiction. With this Declaration, Viet Nam, Kenya, Myanmar, Cuba, Yemen, Dominique, Guatemala, India, Pakistan, Mexico and Seychelles were considered to be the pioneering States in developing the concept of the exclusive economic zone into a source of customary law, which later became an important institution of the Convention.

Viet Nam actively and constructively participated in the third United Nations Conference on the Law of the Sea, held in Montego Bay, Jamaica. Right after the United Nations Convention on the Law of the Sea was adopted, Viet Nam was among the 107 States that signed the Convention on 30 April 1982. Prior to its entry into force, the National Assembly of Viet Nam ratified this crucial legal document on 23 June 1994. Paragraph 1 of the ratification resolution made it clear that the Socialist Republic of Viet Nam, by ratifying the United Nations Convention on the Law of the Sea, expressed its determination to join the international community in the establishment of an equitable legal order and in the promotion of maritime development and cooperation.

The ratification resolution reaffirmed the sovereignty of the Socialist Republic of Viet Nam over its internal waters, territorial sea, sovereign rights and jurisdiction over the contiguous zone, exclusive economic zone and continental shelf on the basis of the provisions of the United Nations Convention on the Law of the Sea and principles of international law, and called upon other countries to respect the above-mentioned rights of Viet Nam. The resolution also reaffirmed Viet Nam's policy of settling disputes over territorial sovereignty and other disagreements related to the East Sea (South China Sea) through peaceful negotiations in the spirit of equality, mutual understanding and respect, with due respect for international law, particularly the Convention, and respect for the sovereign rights and jurisdiction of coastal States over its exclusive economic zone and continental shelf in accordance with the principles of the Convention.

Viet Nam has applied provisions of the United Nations Convention on the Law of the Sea to the step-by-step completion of its legal system in order to create the legal framework for the management of the sea and maritime economic activities, to facilitate the process of international integration and to enhance cooperation with other countries for the maintenance and promotion of peace and stability in the region and the world. On 21 June 2012, the National Assembly of Viet Nam adopted the Law of the Sea of Viet Nam, which was developed on the basis of the provisions of the Convention, with references to international and State practice. The Law of the Sea of Viet Nam includes seven chapters with 55 articles, covering principles of the management and use of the sea, the scope and regime of internal waters, the territorial sea, the contiguous zone, the exclusive economic zone, the continental shelf, the regime of islands, archipelagos, activities in the Vietnamese sea areas, search and rescue, the protection of marine resources and environment, marine scientific research, the development of the maritime economy, sea patrol and control and maritime international cooperation. By adopting its Law of the Sea, Viet Nam harmonized its sea-related laws with the provisions of the Convention. The reiteration in the Law of the Sea of Viet Nam of the policy of settling sea and insular disputes through peaceful means on the basis of international law and the Convention is a testament to the fact that Viet Nam is a responsible member of the international community that respects and complies with international law, including the Convention, and to its resolve to strive for peace, stability, cooperation and development in the region and the world.

Before the adoption of the national Law of the Sea, on 14 June 2005, the National Assembly of Viet Nam adopted the amended Maritime Code of Viet Nam, which entered into force on 1 January 2006, governing maritime navigation and entry into and departure from Vietnamese seaports. In addition, Viet Nam adopted a number of other laws related to the management and use of the sea, such as the

Petroleum Law (1993), the Law on Water Resources (1998), the Law on Environmental Protection (1993), the Law on National Border (2003), the Fishery Law (2004) and a number of ordinances and decrees.

Pursuant to the provisions of the United Nations Convention on the Law of the Sea, Viet Nam has been effectively carrying out the management and implementation of maritime economic activities in its exclusive economic zone and continental shelf for the development of the national economy and the improvements of its people's living conditions. The Government of Viet Nam always provides sufficient protection of the lawful and legitimate rights and interests of foreign actors in economic cooperation, management and exploitation with regard to maritime natural resources in conformity with the provisions of the Convention. Viet Nam has been proactively working with parties concerned in the protection of the marine environment, search and rescue at sea, natural disaster prevention and relief, and preventing and combating crimes at sea, particularly piracy, which contribute to the full implementation of the provisions of the Convention.

The Government of Viet Nam always attaches importance to the protection of natural resources and the marine environment, which is regulated by provisions of relevant legal documents related to different areas of shipping, oil and gas, aqua farming and processing, and sea control and patrol. Viet Nam has proposed various initiatives on the sustainable exploitation of natural resources of the sea and the oceans, environmental protection and response to sea-level rise.

Aware of the obligation of coastal States under the United Nations Convention on the Law of the Sea, Viet Nam established the National Committee on Search and Rescue with Decision No. 780/TTg of the Prime Minister, dated 23 October 1996. The Committee is responsible for instructing and implementing search and rescue activities for people and vehicles (airplanes, ships, oil and gas facilities, etc.) in distress in the air, at sea and in the contiguous areas between Viet Nam and other countries. Viet Nam has become a member of the International Convention on Maritime Search and Rescue and will soon start negotiations with countries concerned on the division of the areas for search and rescue at sea.

On the basis of the consistent policy of settling sea-related disputes through peaceful means, Viet Nam has made significant efforts in effectively applying the United Nations Convention on the Law of the Sea to settle disputes with neighbouring countries related to maritime delimitation in accordance with the principle of equity, in order to reach an acceptable solution. Viet Nam signed an agreement with Thailand on maritime delimitation on 9 August 1997; an agreement with China on the delimitation of the Gulf of Tonkin and on fishery cooperation on 25 December 2000; and an agreement with Indonesia on the delimitation of the continental shelf on 26 June 2003. Viet Nam is currently conducting negotiations with China for the delimitation of the area outside the mouth of the Gulf of Tonkin and negotiations with Indonesia for the delimitation of an exclusive economic zone, and will negotiate sea-related issues with other neighbouring countries. Viet Nam's practice of negotiating and concluding several agreements on maritime delimitation with its neighbouring States represented the creative application of the provisions of the Convention and helped enrich international practice in maritime delimitation. The results of negotiations for delimitation between Viet Nam, Thailand and China helped reaffirm the undeniable trend of using the method of setting a medium line or

equidistance line as the starting point for an equitable solution and the trend of using a single delimitation line for both the exclusive economic zone and the continental shelf.

On the other hand, Viet Nam has always made efforts to act in conformity with international law, including the United Nations Convention on the Law of the Sea. In this spirit, in all discussions and exchanges of views on territorial and maritime disputes related to the East Sea, Viet Nam firmly supports the principle of respect for international law, including the Convention, which is viewed as a primary principle for settling and dealing with insular and maritime disputes. Viet Nam has managed to incorporate this principle into the documents of the Association of Southeast Asian Nations (ASEAN), including the Declaration on the Conduct of Parties in the South China Sea and the Six-Point Principles on the South China Sea of 20 July 2012. With Viet Nam's efforts, the principle of seeking, on the basis of international law, including the Convention, a long-term fundamental solution to disputes in the South China Sea has been incorporated into the Agreement on Basic Principles Guiding the Settlement of Maritime Issues between Viet Nam and China, signed on 11 October 2011. This testifies to the fact that Viet Nam not only strictly observes the provisions of the United Nations Convention on the Law of the Sea, but also promotes respect for and the full implementation of the contents of the Convention.

As recommended in articles 74 and 83 of the United Nations Convention on the Law of the Sea, Viet Nam is always prepared to carry out joint development cooperation with relevant parties in disputed areas in accordance with the provisions of the Convention. In 1992, Viet Nam signed, with Malaysia, a memorandum of understanding for cooperation in exploration for and exploitation of petroleum in a defined area of the continental shelf involving the two countries, which has been effectively implemented. Viet Nam is currently engaged in negotiations with Thailand and Malaysia on cooperation regarding the Viet Nam-Thailand-Malaysia Tripartite Overlapping Continental Shelf Claim Area.

Exercising the rights and obligations of coastal States under the United Nations Convention on the Law of the Sea after nearly three years of arduous efforts (from 2007 to 2009), Viet Nam has completed a quality submission on the continental shelf beyond 200 nautical miles with scientific and legal evidence for delineating its extended continental shelf in accordance with the guidelines of the Commission on the Limits of the Continental Shelf. In early May 2009, Viet Nam submitted to the United Nations its submission on the limits of the continental shelf beyond 200 nautical miles in the northern part of the East Sea and its joint submission with Malaysia on the limits of the continental shelf in the southern part of the East Sea. On 27 and 28 August 2009, Viet Nam presented the two submissions at the Commission on the Limits of the Continental Shelf and called upon the Commission to establish, at an early date, subcommissions to consider the submissions in accordance with the provisions of the Convention as well as the rules of procedure of the Commission. These undertakings reaffirmed Viet Nam's determination to observe the Convention.

Viet Nam has been participating proactively in activities under the auspices of international bodies established under the United Nations Convention on the Law of the Sea. Viet Nam is a member of the Council of the International Seabed Authority and was elected Vice-President of the Assembly of the Authority. Viet Nam has

participated in all meetings of State parties to the Convention held annually at the United Nations and made positive contributions to promoting the effective implementation of the Convention. Viet Nam has also participated in and made positive contributions to meetings of the International Seabed Authority highlighting the role of the Convention. Viet Nam has supported the enhanced activities of the Commission on the Limits of the Continental Shelf and the judicial function of the International Tribunal for the Law of the Sea and has made annual financial contributions for the operation of bodies established under the Convention. In the related forums, Viet Nam has consistently stated that countries carrying out maritime activities must strictly abide by and fully implement the provisions, rights and obligations enshrined in the Convention. Viet Nam has, on an annual basis, proactively engaged in discussions on and supported the adoption of the resolutions of the United Nations General Assembly on the oceans and the law of the sea and on sustainable fisheries, as well as the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea.

In addition, Viet Nam participated in the formulation of various international and regional legal documents related to the sea, including the Convention on the International Maritime Satellite Organization (INMARSAT) and the Global Maritime Distress and Safety System. The country has established a system of coastal information stations to maintain communication with and among fishing boats. Inspection of vessels at seaports is always conducted in accordance with regional agreements on governmental inspection at ports. Viet Nam has joined the International Maritime Organization and other instruments under its umbrella, including the 1973 International Convention for the Prevention of Pollution from Ships and the 1978 supplemental Protocol relating thereto, the 1969 International Convention on Tonnage Measurement of Ships, the 1972 International Regulations for Preventing Collisions at Sea, the 1974 International Convention for the Safety of Life at Sea, the 1966 International Convention on Load Lines, the 1995 International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, the 1992 International Convention on Civil Liability for Oil Pollution Damage (Viet Nam ratified the Convention on 1 July 2003, and the Convention entered into force for Viet Nam on 1 July 2004), the 1965 Convention on Facilitation of International Maritime Traffic and the 1979 International Convention on Maritime Search and Rescue.

Viet Nam has signed a number of ASEAN agreements related to shipping and maritime services, including the Agreement for the Facilitation of Search of Ships in Distress and Rescue of Survivors of Ship Accidents, signed on 15 May 1975; the ASEAN Framework Agreement on the Facilitation of Goods in Transit, signed on 16 December 1998; the General Agreement on Trade in Services (GATS), signed December 1995; and the ASEAN Framework Agreement on the Facilitation of Inter-State Transport, signed on 10 December 2009.

Viet Nam's accession to sea-related international and regional legal documents reflects the commitment of the Government of Viet Nam to the full observation of the provisions of the United Nations Convention on the Law of the Sea.

In summary, over the past 30 years, the United Nations Convention on the I aw of the Sea has provided a solid international legal basis for defining the rights and obligations of coastal States and for settling issues related to the sea and the oceans, including sea disputes. As a coastal State, Viet Nam has always taken an active role and made continuous efforts in observing and implementing the Convention. Viet Nam is of the view that the full implementation by all State parties of the rights and duties enshrined in the Convention will help humankind not only avoid tensions and disputes on the sea, but also better utilize sea and ocean resources for human benefits.

Viet Nam has fully abided by and will continue to act in accordance with the purposes, objectives and provisions of the United Nations Convention on the Law of the Sea, and urges other countries to take the same course of action.

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Sixty-seventh session
Agenda item 64
Report of the Human Rights Council

Letter dated 6 December 2012 from the Permanent Representative of Belarus to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a statement of the Republic of Belarus in connection with the adoption by the Third Committee of the General Assembly of the resolution entitled "Report of the Human Rights Council" (see annex). I would like to request that this letter and its annex be issued as a document of the sixty-seventh session of the General Assembly, under agenda item 64, "Report of the Human Rights Council".

(*Signed*) Andrei **Dapkiunas**

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Annex to the letter dated 20 November 2012 from the Permanent Representative of Belarus to the United Nations addressed to the Secretary-General

Statement of the Republic of Belarus in connection with the adoption by the Third Committee of the General Assembly of the draft resolution on the report of the Human Rights Council

Belarus appreciates the efforts of the Group of African States to further the resolution on the report of the Human Rights Council. Many of the Council's decisions and fields of endeavour, especially the universal periodic review, genuinely serve to promote and protect all categories of human rights in each and every country of the world.

At the same time, Belarus is compelled as a matter of principle to dissociate itself from the consensus on adoption of the draft resolution on the report of the Human Rights Council.

Among other things, the report of the Human Rights Council presents the activity of the Council in regard to adoption of a resolution targeting Belarus that established the politically motivated mandate of the Special Rapporteur on the human rights situation in Belarus. These decisions of the Council have nothing to do with the actual human rights situation in Belarus and are designed to interfere in the internal affairs of the Republic of Belarus.

Both the resolution and the mandate of the Special Rapporteur on the human rights situation in Belarus have been foisted upon the international community by States members of the European Union that are promoting their political agenda within the Council. The primary purpose of the resolution and the mandate established thereby is to provide United Nations cover for deliberate anti-Government activity in Belarus. Belarus is extremely concerned by the growing practice of selective adoption of country resolutions and their use as a device to exert political pressure on sovereign States, which breaches the principles of universality, objectivity and non-selectivity.

It is unacceptable for the universal periodic review mechanism and mutually respectful dialogue among States Members of the United Nations to be supplanted by the practice of double standards catering to the interests of specific groups of States. This severely damages the reputation of the Council as the primary human rights body of the United Nations. It was this same approach to the consideration of human rights situations that caused the erstwhile Commission on Human Rights to founder.

Belarus also expresses its intent to continue constructive engagement with the Council and its special procedures thematic mandates, as well as to work with those States whose goal is to restore trust and impartiality to the work of the Council.

20 November 2012

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Sixty-seventh session
Agenda item 130
Programme budget for the biennium 2012-2013

Reports on the Department of Safety and Security and on the use of private security

Report of the Advisory Committee on Administrative and Budgetary Questions

I. Introduction

1. The Advisory Committee on Administrative and Budgetary Questions has considered the comprehensive report of the Secretary-General on the Department of Safety and Security (A/67/526), which is submitted pursuant to section XIV of General Assembly resolution 65/259, in which the Assembly requested a report on a comprehensive safety and security policy framework, providing the basis for threat and risk assessment, cooperation with the host countries, cost-sharing arrangements and operations of the Department of Safety and Security, as well as the report of the Secretary-General on the use of private security (A/67/539), which is submitted pursuant to paragraph 113 of Assembly resolution 66/246. During its consideration of the reports, the Advisory Committee met with representatives of the Secretary-General, who provided additional information and clarification.

II. Comprehensive report on the Department of Safety and Security

2. The Secretary-General's comprehensive report on the Department of Safety and Security provides information on: (a) the outcome of efforts made from June 2007 to June 2012 in enhancing a unified and strengthened United Nations security management system through the development of a comprehensive overarching policy framework for security management; (b) specific operational and policy achievements made by the Department of Safety and Security and its partners in the United Nations security management system; and (c) challenges to and opportunities for further enhancing the United Nations security management system to meet the demands for United Nations operations at a growing number of volatile duty stations. The report indicates that the Department provides policy, operational and

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oversight support for the United Nations security management system and undertakes efforts, within its purview to facilitate, coordinate and continuously review the system so that it responds to an evolving global security environment, and delivers effective safety and security measures to protect United Nations operations, its personnel, premises and assets (see A/67/526, para. 5).

3. The Secretary-General's report reviews progress made by the Department of Safety and Security and its partners in establishing a modern and effective security management system for the protection and coordination of the safety and security arrangements for over 150,000 personnel, and for assets and operations in more than 180 countries, approximately 2,000 duty stations and over 5,000 United Nations premises. The Advisory Committee was informed that the United Nations currently deploys a total of 5,000 national and international security staff system-wide. The Committee was further informed by the representatives of the Secretary-General that the safety and security arrangements of the Department impact a total of approximately 300,000 eligible family members.

4. The Advisory Committee was informed by the representatives of the Secretary-General that the United Nations currently faces an unprecedented level of security threats to its operations. Upon enquiry, the Committee was informed that these security threats included specific threats from international terrorist groups and that, in certain countries in which it conducts operations, the United Nations faces increased general instability and greater threats to its security.

5. The Advisory Committee was also informed by representatives of the Secretary-General that the Department is subject to frequent audits, reviews and assessments by internal and external oversight bodies. The Office of Internal Oversight Services has conducted various audits on the safety and security arrangements of the Department, including the audit of the Department in 2008, the audit of risk assessment in 2008 and the audit of crisis management and coordination of field security operations in 2011, as well as audits examining safety and security in a number of specific field missions.

6. The Advisory Committee recalls that it is the responsibility of the Department to provide for the safety and security of the United Nations system operations in the field, and that the activities of the Department are financed both from the regular budget and on a cost-sharing basis with other organizations covered by the security management system in the field (A/66/6 (sect. 35), para. 35.7). The Committee notes that the regular budget appropriation for the Department for the biennium 2012-2013 amounts to $213,412,400, while the gross budget for jointly financed activities appropriation under the same budget section amounts to $244,536,400, which is inclusive of resources for malicious acts insurance and for the Vienna International Centre, in addition to the activities of the Department in the field. The Committee was informed that the Department is budgeted at a level considerably lower than some providers of similar services in the field, including among security entities providing security services to diplomatic and related operations internationally. Upon enquiry, the Committee was informed that total expenditure for the biennium 2010-2011 under budget section 35, Safety and security, amounted to $234,154,000 under the regular budget and $243,914,200 under the gross budget for jointly financed activities. For the biennium 2012-2013, the revised estimates amounted to $240,249,600 under the regular budget and $264,225,300 under jointly financed activities, resulting in a total change of $26,837,200 under the regular

budget and of $19,688,900 under the gross budget for jointly financed activities (see A/67/592, annexes I.A and III, and table 1 below).

Table 1
Budgetary resources under section 35, Safety and security
(Thousands of United States dollars)

Regular budget of the Department of Safety and Security

2010-2011 expenditures[a]	*2012-2013 initial appropriation*[b]	*2012 expenditure (Jan. to Nov.)*[c]	*2012-2013 revised estimates*[d]	*2012-2013 Total changes*
234 154.0	213 412.4	109 567.3	240 249.6	26 837.2

Gross budget (jointly financed activities) under the Department of Safety and Security

2010-2011 expenditures[e]	*2012-2013 initial appropriation*[f]	*2012 expenditure (Jan. to Sept.)*[f]	*2012-2013 revised estimates*[g]	*2012-2013 Total changes*
243 914.2	244 536.4	92 811.9	264 225.3	19 688.9

[a] Source: Audited financial statements for the biennium ended 31 December 2011 (A/67/5 (Vol. I)).
[b] Source: General Assembly resolution 66/248.
[c] Source: status of allotments (IMIS) as at 1 December 2012.
[d] Source: annex I.A of the first performance report (A/67/592), based on post-related actual expenditure and updated projected rates.
[e] Source: General Assembly resolution 66/247.
[f] Source: status of allotments (IMIS) as at 1 December 2012, representing nine months of field expenditure through September 2012, as field staff are administered by the United Nations Development Programme (UNDP), and expenditures are updated on a quarterly basis.
[g] Source: annex III of the first performance report (A/67/592), based on post-related actual expenditure and updated projected rates.

7. In paragraphs 7 to 24 of his report (A/67/526), the Secretary-General provides information on the strategic vision, mission and objectives of the Department. In 2009, the Organization, through its United Nations System Chief Executives Board for Coordination (CEB), adopted a new strategic vision and made a policy shift in security management from a "when to leave" to a "how to stay" approach to support the delivery of United Nations system mandated programmes and activities, even in highly challenging security situations. In addition, CEB adopted the principles of "no programme without security" and "no security without resources". The report stipulates that, increasingly, through efforts made at the Departmental level, partners in the United Nations security management system are provided with better information on jointly financed activities on a more regular basis (ibid., para. 60). The Advisory Committee notes that the Department continues its efforts to ensure the mainstreaming of security costs within programmes and activities to cover the financial costs of providing adequate security (ibid., para. 11).

8. During its recent consideration of the management plan of the World Food Programme (WFP), the Advisory Committee was informed by representatives of WFP that the Department of Safety and Security does not always have the infrastructure in place to provide security, and that additional resources and

investments in security are required on the part of WFP for its operations in the field, for example, in Darfur. The Committee was further informed that WFP finances security infrastructure for its field presences for the purpose of ensuring operational objectives within the framework provided by the Department, which WFP indicated includes compliance with minimum operating security standards, blast protection and emergency procedures specific to country offices, in order to provide operational security. WFP representatives indicated to the Committee that the Department provides system-wide services, such as policy, oversight, best practices, training and advice, but not necessarily the resources related to WFP-specific operational security.

9. **The Advisory Committee reiterates its view that cost-sharing arrangements for field-related security activities are important to ensure that all parties concerned share both ownership of and accountability for the system (see A/64/7/Add.16, para. 25) and that the Department should critically review and assess its available resources against its current operational needs and priorities (see A/66/7, part XII, para. XII.6). In this connection, the Committee considers that the presentation of proposals for the gross budget for jointly financed activities could benefit from greater transparency and coherence. The Committee requests that the Secretary-General ensure that future budgetary proposals disclose the functions and related requirements that are to be met through the gross budget for jointly financed activities as well as those of participating organizations that are expected to complement the Department's activities in the field.**

10. The report also states that, since 2009, the Department has worked in tandem with its partners in the United Nations security management system through the Inter-Agency Security Management Network to: (a) address any policy and operational deficiencies in the security management system; (b) design a new, stronger, more dynamic and proactive security and risk management architecture; (c) undertake efforts to mainstream safety and security at all levels of United Nations system activities, including ensuring that the safety and security of United Nations personnel is an integral part of programme planning at all levels; and (d) promote security management as an enabler of United Nations system programmes and activities (A/67/526, para. 9). In paragraph 10 of his report the Secretary-General highlights a number of policy initiatives introduced by the Department in the period under review, including the development of a security risk management model and guidelines for determining acceptable risk (2009); the revision of the framework of accountability for the United Nations security management system (2010); the introduction of the security level system (2011); and the development of a policy to strengthen cooperation with host Governments (2012).

11. According to the report, the Inter-Agency Security Management Network is the mechanism through which the Department executes its oversight and coordination responsibilities for the United Nations security management system. The Network considers, reviews and approves policies, practices and procedures, administrative issues and resource parameters related to the security management system and monitors its implementation. The Network holds regular and steering group sessions on a regular basis and key members participate in weekly teleconferences to troubleshoot urgent issues and ensure coherence and coordination on a range of topical security issues (A/67/526, para. 19).

12. The Secretary-General's report also provides information on the decentralization of decision-making in security matters and on efforts to support both designated officials for security, who lead United Nations activities, programmes and mandates worldwide in their respective areas of assignment, and security professionals in carrying out their security management responsibilities in line with the framework of accountability for the security management system (A/67/526, para. 12). The report states that, in the view of the Secretary-General, existing security capacity remains insufficient to place security officers in all countries where the United Nations is present; consequently, the Department has used security officers assigned to other countries to assume additional regional responsibilities (ibid., para. 14). The Advisory Committee was informed that the Compliance, Evaluation and Monitoring Section of the Department routinely undertakes field visits to ensure compliance with the policies of the security management system by United Nations offices, agencies, funds and programmes in the duty stations.

13. **The Advisory Committee recalls its previous observations on the revised framework for accountability for the United Nations security management system regarding the monitoring of managerial performance (see A/65/575, para. 15). While cognizant of the measures taken to decentralize decision-making in security matters and the increased use of security officers with regional responsibility, the Committee nevertheless expects that the Department of Safety and Security will ensure full accountability for compliance with security policies and guidelines throughout the United Nations system and will monitor managerial performance through the Inter-Agency Security Management Network.**

14. The Secretary-General's report indicates that in 2012 the Department of Safety and Security established a common policy on relations with the host country on security issues for the United Nations security management system (see A/67/526, para. 22), and that the Department's security personnel in the field have been encouraged to share details of the security level system with respective host country authorities (ibid., para. 46). The Advisory Committee was also informed that the security level system had in fact been designed to be shared with Member States and that the Department routinely shares relevant information on potential security threats with host Governments. **Taking into account the position of the General Assembly that the primary responsibility for ensuring the safety and security of the United Nations staff and premises rests with the host country, and the Assembly's emphasis on the role of the relevant host country agreements (see resolution 65/259, sect. XIV, para. 7), the Committee encourages the Department of Safety and Security to continue to strengthen its cooperation with host Governments in order to ensure the safety and security of United Nations personnel, premises and assets.**

15. In paragraphs 25 to 39 of his report, the Secretary-General outlines the structure, responsibilities and staffing of the Department. The Department has three main components for operational and technical security management support and services to United Nations operations and programmes in the field worldwide and at Headquarters locations: the Division of Regional Operations, the Division of Headquarters Security and Safety Services and the Field Support Services (see A/67/526, para. 26).

16. The milestone achievements of the Department are described in further detail in paragraphs 40 to 67 of the Secretary-General's report, including an improvement since 2007 in the functioning of the Inter-Agency Security Management Network, which is chaired by the Under-Secretary-General for Safety and Security (A/67/526, para. 40). According to the report, the Department has enhanced its ability to identify, analyse and understand security threats against the United Nations by developing and refining a security risk management architecture to maximize the ability of the United Nations system to operate in high-risk environments (ibid., para. 43).

17. It is stipulated in the report that the new security risk management model encompasses a range of policies, tools and guidelines, including the security level system promulgated by the United Nations security management system in January 2011, to identify and assess threats and to determine the level of risk after risk mitigation measures are put in place (A/67/526, para. 45). Under the previous United Nations security phase system, security management for the United Nations system was equated with risk aversion, and the system was inextricably linked with actions that triggered certain security-related entitlements, such that a certain phase level would automatically trigger the evacuation or relocation of United Nations personnel and/or their eligible family members according to a prescribed set of criteria (ibid., para. 43). The Advisory Committee was informed that the presence of elevated security risks in the field are generally connected to a heightened need for humanitarian assistance from the United Nations system and its partners, and that the United Nations security management system strives to balance the need for the security of United Nations personnel, premises and assets with the need to implement critical programmes and to deliver necessary services. The Committee was further informed that under certain circumstances the security situation may render the continued presence of United Nations personnel unsustainable. The representatives of the Secretary-General emphasized, however, that evacuation does not mean that operations must cease, and that in such instances alternative means should be found to implement critical programmes, such as using locations outside the affected area to coordinate activities.

18. In the area of operational support, the report states that the Department has put in place additional measures to strengthen threat and risk assessment, including efforts to promote cooperation with host country authorities, the creation of additional analyst positions and security information operation centres in high-risk areas and the development of a training programme for security analysts (A/67/526, para. 48). Regarding field support, the Secretary-General indicates that, in addition to its training programmes, the Department has developed its capacity for critical incident stress counselling for United Nations system personnel, including the establishment and revision of standard operating procedures (ibid., para. 56), has made progress in information management, including the introduction, in 2010, of the United Nations travel request information processing system, which provides a more comprehensive travel advisory and compliance information system than the prior system (ibid., para. 54), and has advanced efforts in aviation risk management (ibid., para. 52). With regard to security at United Nations Headquarters, offices away from Headquarters and the tribunals, according to the Secretary-General, access control systems at those locations have been strengthened with the implementation of Project Access Control, a standardized global access control system of personnel and vehicles entering United Nations premises. The Advisory

Committee notes that the Department expects to complete the current Project Access Control project by the end of 2012 (ibid., para. 65).

19. According to the Secretary-General's report, the United Nations system faces a broader scope and a consistently growing array of threats associated with armed conflict, violence, extremism, crime and civil unrest, including in conflict zones where Member States increasingly expect the United Nations to deliver its mandated programmes (A/67/526, para. 67). The Advisory Committee notes, however, from the information contained in paragraphs 68 to 70 of the Secretary-General's report that, in the period under review, the Department has been able to develop necessary information systems and to meet increasing needs for emergency surge requirements from within existing levels of budgetary resources through the reprioritization of its activities.

20. **The Advisory Committee commends the Department of Safety and Security for the progress it has made in strengthening the security management system for the coordination of security arrangements for United Nations personnel, premises and assets in a challenging security environment.**

III. Use of private security

21. The Secretary-General's report on the use of private security was submitted in response to paragraph 113 of General Assembly resolution 66/246, in which the Assembly requested the Secretary-General to report in its sixty-seventh session on the appropriateness of the use of private security personnel, particularly in situations in which they were the only option available to provide safety and security for staff. The report indicates that the United Nations has long used private security companies to secure premises and assets against criminal activities. In recent years, however, faced with demands from Member States to carry out mandates and programmes in high-risk environments, in addition to increased evidence that the United Nations is a specific target in some such environments, organizations of the United Nations system have, as a last resort, contracted armed private security companies to protect United Nations personnel, premises and assets. The use of private security companies has, in some cases, expanded to include the provision of armed guards and armed escorts (see A/67/539, paras. 3 and 4).

22. The Advisory Committee notes that, while the Organization regularly contracts the services of armed private security companies to provide security for its operations system-wide, the United Nations also plays a substantive role relating to the regulation and monitoring of armed private security companies, primarily through the open-ended intergovernmental working group to consider the possibility of elaborating an international regulatory framework on the regulation, monitoring and oversight of the activities of private military and security companies, established by the Human Rights Council in its resolution 15/26, as well as the working group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, created by the Commission on Human Rights in its resolution 2005/2, whose mandate has been extended by the Human Rights Council. The Committee notes that the report of the Secretary-General is limited to the discussion of the United Nations as a client of armed private security companies in its operations at Headquarters and field locations.

23. The Advisory Committee was provided with detailed information on the use of armed private security companies in the United Nations, which is attached to the present report as annex I with respect to special political missions and as annex II with respect to peacekeeping missions. The representatives of the Secretary-General informed the Committee that the armed private security companies listed in the annexes, with one exception, are national or local in scope, and that some may operate in more than one country. The United Nations system, however, currently has in place only one contract with a large, multinational armed private security company, which works with the United Nations Assistance Mission in Afghanistan (UNAMA).

24. According to the report of the Secretary-General, from 2007 until November 2012, the United Nations security management system had in place only guidelines on the use of armed guards (A/67/539, para. 5). In August 2010, in its report to the General Assembly, the working group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination stated that the United Nations lacked a system-wide policy governing the hiring of private military and security companies, including issues related to the vetting and monitoring of the companies and their personnel (ibid., para. 8). The working group advised the Organization to take precautionary measures to ensure that, if and when it outsourced its security and protection functions, it did so in accordance with the Charter of the United Nations and with international human rights standards and with proper management and oversight practices (see A/65/325, para. 31).

25. In paragraph 8 of his report, the Secretary-General indicates that in May 2011, cognizant of the fact that there was a need to review the appropriateness of the use of armed private security companies and their personnel, and acting on the basis of consultations within the United Nations system, he decided that the Organization should resort to the use of armed private security companies and their personnel only as the last option to enable United Nations activities in high-risk environments. The Advisory Committee notes that the Secretary-General further decided that the United Nations should exercise the option to use armed private security companies only when a United Nations security risk assessment had concluded that other alternatives, including protection by the host country, other support from Member States or internal United Nations system resources, were insufficient. In addition, he stipulates that the use by the United Nations of an armed private security company should be consistent with national and international law, the Charter and relevant United Nations resolutions, including General Assembly resolution 55/232 on outsourcing practices, and relevant United Nations administrative policies and guidelines. Accordingly, the Inter-Agency Security Management Network established a working group in August 2011 under the chairmanship of the Department of Safety and Security and, following a process of inter-agency and interdepartmental review, adopted a policy and guidelines governing the use of armed private security companies in June 2012 (A/67/539, paras. 11-13). The Advisory Committee was informed that the policy, contained in section I of chapter IV on armed private security companies of the United Nations security management system security policy manual, the guidelines on the use of private security services from private security companies and annex A to the guidelines for statement of works, was approved by CEB in November 2012. **The Advisory Committee is of the view that the policy on the use of armed private security companies should be considered by the relevant committees of the General Assembly.**

26. The new policy on the use of armed private security specifies that the United Nations system may use services provided by armed private security companies only to protect United Nations personnel, premises and property and to provide mobile protection for United Nations personnel and assets, and reflects the main elements of the criteria presented in paragraph 9 of the Secretary-General's report. Representatives of the Secretary-General clarified to the Advisory Committee that the Organization enters into contracts with international and national private security companies only if such companies are duly licensed and approved to operate by the concerned host Government.

27. The Advisory Committee was informed, upon enquiry, that the relevant sections of the policy on the use of armed private security companies outline the responsibilities for management and oversight of any contract for armed private security services, including the need for daily on-site inspections of the private security company and for the delegation of responsibility to the designated official in the duty station to ensure that such inspections are duly performed. The designated official is also responsible for ensuring that a monthly review of the performance of the private security company is completed in accordance with the guidelines. The most senior security professional directly supporting the designated official and the responsible official of the contracting organization must immediately submit a joint report on any performance issues or concerns identified, along with recommended remedial actions to the designated official and to the representative of the contracting organization concerned, for approval.

28. The Advisory Committee was informed that the personnel employed by private security companies do not enjoy the privileges and immunities afforded to United Nations personnel and that private security companies are accountable for the actions of their personnel. In cases of misconduct or illegal acts, the personnel of private security companies are subject to the national law of the country in which they operate. The Committee was informed that the general conditions of the model contract with armed private security companies address the risk of sexual exploitation and abuse and specifically require the contracted company to take appropriate measures to prohibit its employees from engaging in such misconduct. Upon enquiry, the Committee was further informed that, should the Organization have credible information that a private security company and/or its individual employees were involved in sexual exploitation or abuse, in addition to considering termination pursuant to the terms of the contract, it would refer the matter to the Member State or States concerned for investigation by the relevant Government authorities and, if deemed appropriate, for further action.

IV. Conclusion

29. **The Advisory Committee recommends that the General Assembly take note of the comprehensive report of the Secretary-General on the Department of Safety and Security (A/67/526) and the report of the Secretary-General on the use of private security (A/67/539), taking into account the observations and recommendations contained in the paragraphs above.**

Annex I

Armed private security companies at special political missions

(Thousands of United States dollars)

Mission	*Location*	*Name of security company (local unless otherwise stated)*	*Number of personnel employed by the security company*	*Security company approved budget for 2012*	*Security company cost-expenditure as of 31 Oct. 2012*	*Security company proposed budget for 2013*
United Nations Integrated Peacebuilding Office in the Central African Republic (BINUCA)	BINUCA-Bangui	Fox Private Security Company	12	33 408	21 637	33 408
	BINUCA-Bassongoa	Fox Private Security Company	6	10 440	10 819	10 440
	BINUCA-Bouar	Fox Private Security Company	6	10 440	10 819	10 440
	BINUCA-Bambari	Fox Private Security Company	4	10 440	7 212	10 440
Subtotal			**28**	**64 728**	**50 487**	**64 728**
United Nations Office in Burundi (BNUB)	BNUB	Protection Sécurité Gardiennage-Burundi	123	165 120	188 877	165 120
Subtotal			**123**	**165 120**	**188 877**	**165 120**
Cameroon-Nigeria Mixed Commission (CNMC)	CNMC-Yaoundé	G4 Security Services Cameroon	3	11 424	6 912	8 496
	CNMC-Calabar	Force One Security Ltd.	7	11 088	9 265	11 088
Subtotal			**10**	**22 512**	**16 177**	**19 584**
United Nations Integrated Peacebuilding Office in Sierra Leone (UNIPSIL)	UNIPSIL-Cabenda, Freetown	Security Support Group International	42	172 800	144 000	172 800
	UNIPSIL-Cockerill, Freetown	Security Support Group International	9			
	UNIPSIL-Lungi, Freetown	Security Support Group International	7			
	UNIPSIL-Leicester Peak, Freetown	Security Support Group International	4			
	UNIPSIL-Bo Regional Office	Security Support Group International	15			
	UNIPSIL-Kono Regional Office	Security Support Group International	9			
	UNIPSIL-Cabenda, Freetown	Technical Security Group International	13	136 800	90 000	126 000
	UNIPSIL-Cockerill, Freetown	Technical Security Group International	7			
	UNIPSIL-Lungi, Freetown	Technical Security Group International	2			

Mission	*Location*	*Name of security company (local unless otherwise stated)*	*Number of personnel employed by the security company*	*Security company approved budget for 2012*	*Security company cost-expenditure as of 31 Oct. 2012*	*Security company proposed budget for 2013*
	UNIPSIL-Freetown and regional offices	UNIPSIL-United Nations security management system Cost share	–	40 000	28 100	40 000
Subtotal			**108**	**349 600**	**262 100**	**338 800**
United Nations Regional Office for Central Africa (UNOCA)	UNOCA/Libreville	DMT Security Company	16	67 200	69 474	84 000
Subtotal			**16**	**67 200**	**69 474**	**84 000**
United Nations Office for West Africa (UNOWA)	UNOWA	SAGEM	7	63 542	34 626	71 956
Subtotal			**7**	**63 542**	**34 626**	**71 956**
United Nations Support Mission in Libya (UNSMIL)	UNSMIL-Tripoli	Bids under evaluation	24	–	–	432 000
	UNSMIL-Benghazi	Bids under evaluation	12	–	–	216 000
	UNSMIL-Sabha	Bids under evaluation	12	–	–	216 000
Subtotal			**48**	–	–	**864 000**
United Nations Integrated Peacebuilding Office in Guinea-Bissau (UNIOGBIS)	UNIOGBIS/Bissau	West Africa Seguranca	33			
	UNIOGBIS/Mansoa	West Africa Seguranca	3	113 664	76 853	102 600
	UNIOGBIS/Bafatá	Masa	7			
Subtotal			**43**	**113 664**	**76 853**	**102 600**
United Nations Political Office for Somalia (UNPOS)	UNPOS office in Hargeisa	Physical Risk Solution (unarmed)	14	24 000	13 531	60 000
	UNPOS office in Galkayo	Office not operational	–	24 000	–	–
	UNPOS office in Garowe		–	122 134	138 461	–
Subtotal			**14**	**170 134**	**151 992**	**60 000**
United Nations Assistance Mission for Iraq (UNAMI)	UNAMI/Kuwait	Al-Soqoor Security Services and Protection Co. (provision of security guards)	37	230 880	236 047	288 600
	UNAMI/Amman	Global Shield for Trade and Security (provision of security guards)	58	222 720	196 207	–
	UNAMI/Baghdad	Ronco Consulting Corp. (provision of explosive detection devices)	1	1 040 400	488 532	–
	UNAMI/Baghdad International Airport	Ronco Consulting Corp. (provision of explosive detection devices)	1	–	237 499	–

Mission	*Location*	*Name of security company (local unless otherwise stated)*	*Number of personnel employed by the security company*	*Security company approved budget for 2012*	*Security company cost-expenditure as of 31 Oct. 2012*	*Security company proposed budget for 2013*
	UNAMI/Erbil	Ronco Consulting Corp. (provision of explosive detection devices)	1	–	248 104	–
	UNAMI/Basra	Ronco Consulting Corp. (provision of explosive detection devices)	1	–	330 827	–
	UNAMI/Kirkuk	Ronco Consulting Corp. (provision of explosive detection devices)	1	–	75 163	–
	UNAMI/Erbil	To be determined (expected to be provision for security guards)/bids under evaluation	–	–	–	199 800
Subtotal			**100**	**1 494 000**	**1 812 379**	**488 400**
United Nations Assistance Mission in Afghanistan (UNAMA)	UNAMA	IDG Security Ltd. (international armed guards)	344	8 336 190	8 969 702	6 548 362
	UNAMA	IDG Security Ltd. (armed static guards and unarmed static guards)	823	2 414 874	2 234 080	1 764 470
	UNAMA	IDG Security Ltd. (canine services)	13 teams	562 614	1 024 860	676 358
Subtotal			**1 167**	**11 313 678**	**12 228 642**	**8 989 190**
Total			**1 696**	**13 974 466**	**15 019 431**	**11 401 594**

Annex II

Armed private security companies in peacekeeping missions

(Thousands of United States dollars)

Mission	*Location*	*Name of security company (local unless otherwise stated)*	*Number of personnel employed by the security company*	*Security company approved budget for 2012/13*	*Security company cost-expenditure as of 31 Oct. 2012*	*Security company estimated budget for 2013/14*
United Nations Stabilization Mission in Haiti (MINUSTAH)	MINUSTAH-Port-au-Prince	PAP Sécurité	257	5 652 000	588 009	5 125 200
	MINUSTAH-regions	PAP Sécurité	65			
	MINUSTAH-Santo Domingo	G4S	9	180 000	10 623	216 000
	MINUSTAH-Port-au-Prince (canine unit)	Seila Kennels	8 teams	180 000	10 900	–
Subtotal			**331**	**360 000**	**21 523**	**216 000**
United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO)	MONUSCO — 7 locations Mission wide — Congo	Delta Protection SPRL	487	6 610 960	749 980	8 454 075
	MONUSCO — 15 locations Mission wide — Congo	KK Security Congo SPRL	614	–	770 834	–
	MONUSCO — 1 location — Kigali-Rwanda	Topsec	14	–	10 630	–
	MONUSCO — 2 locations — Entebbe/ Kampala-Uganda	ASKAR	91	–	85 096	–
Subtotal			**1 206**	**6 610 960**	**1 616 540**	**8 454 075**
African Union-United Nations Hybrid Operation in Darfur (UNAMID)	UNAMID	Ministry of Interior — Government of the Sudan	12 policemen	–	12 375	37 134
Subtotal			**12**	**–**	**12 375**	**37 134**
United Nations Global Support Centre (UNGSC)	United Nations Global Support Centre-Valencia	SEGURISA, Servicios Integrales de Seguridad S.A.	12	449 000	121 162	449 000
Subtotal			**12**	**449 000**	**121 162**	**449 000**
United Nations Interim Force in Lebanon (UNIFIL)	UNIFIL/Beirut (UNIFIL House)	Protectron	17	191 370	59 958	93 600
Subtotal			**17**	**191 370**	**59 958**	**93 600**
United Nations Mission in South Sudan (UNMISS)	UNMISS	–	–	–	–	10 300 000
Subtotal			**–**	**–**	**–**	**10 300 000**

Mission	*Location*	*Name of security company (local unless otherwise stated)*	*Number of personnel employed by the security company*	*Security company approved budget for 2012/13*	*Security company cost-expenditure as of 31 Oct. 2012*	*Security company estimated budget for 2013/14*
United Nations Integrated Mission in Timor-Leste (UNMIT)	UNMIT/Dili-Office locations	Asia-Pacific Assurance Company, UNIPESSOAL Lda (dba APAC Security)	267			
	UNMIT/Dili — Residences (international staff)	Asia-Pacific Assurance Company, UNIPESSOAL Lda (dba APAC Security)	303			
	UNMIT/Dili — Residences (United Nations Volunteers)	Asia-Pacific Assurance Company, UNIPESSOAL Lda (dba APAC Security)	138	1 301 706	1 057 815	–
	UNMIT/Dili — Residences (United Nations police)	Asia-Pacific Assurance Company, UNIPESSOAL Lda (dba APAC Security)	141			
	UNMIT/Dili — Residences (Military Liaison Group)	Asia-Pacific Assurance Company, UNIPESSOAL Lda (dba APAC Security)	18			
Subtotal			**867**	**1 301 706**	**1 057 815**	–
United Nations Operation in Côte d'Ivoire (UNOCI)	UNOCI	Group 4 Securicor	93			
	UNOCI	Flash Intervention	120			
	UNOCI	Vigassistance	77			
	UNOCI	911 Security	38			
	UNOCI	BIP Assistance	37	4 999 500	3 900 600	6 167 800
	UNOCI	SMO	22			
	UNOCI	EPSS	177			
	UNOCI	Sigasécurité	75			
	UNOCI	Sécurité Plus Services	47			
	UNOCI	Loss Control	0			
Subtotal			**686**	**4 999 500**	**3 900 600**	**6 167 800**
United Nations Support Office for the African Union Mission in Somalia (UNSOA)	UNSOA, Wilson Airport, Nairobi	G4S (unarmed)	4	14 035	3 749	17 880
	UNSOA, Spring Valley Broadcast Centre, Nairobi	G4S (unarmed)	8	25 037	12 462	–
	UNSOA, Spring Valley Broadcast Centre, Nairobi	Kenya Administrative Police (armed)	2	9 381	6 787	–
	UNSOA, Mombasa Support Base, Mombasa	G4S (unarmed)	26	78 447	24 561	92 040
	UNSOA/UNPOS office and accommodation in Mogadishu — 2013/14 budget year	Bids under evaluation	–	–	–	130 800
	UNSOA Mogadishu Logistics Base — 2013/14 budget year	Bids under evaluation	–	–	–	246 900

Mission	*Location*	*Name of security company (local unless otherwise stated)*	*Number of personnel employed by the security company*	*Security company approved budget for 2012/13*	*Security company cost-expenditure as of 31 Oct. 2012*	*Security company estimated budget for 2013/14*
	UNSOA Kismayo Office and accommodation — 2013/14 budget year	Bids under evaluation	–	–	–	188 400
	UNSOA Baidoa Office and accommodation — 2013/14 budget year	Bids under evaluation	–	–	–	188 400
	UNSOA Beletweyne office and accommodation — 2013/14 budget year	Bids under evaluation	–	–	–	188 400
Subtotal			**40**	**126 900**	**47 559**	**1 052 820**
United Nations Mission in Liberia (UNMIL)	UNMIL	Intercon Security Systems of Liberia Ltd.	106	1 380 120	698 901	1 380 120
	UNMIL	Executive Security Consultancy	80	1 041 600	410 564	1 041 600
Subtotal			**186**	**2 421 720**	**1 109 465**	**2 421 720**
United Nations Interim Administration Mission in Kosovo (UNMIK)	UNMIK-Pristina	Henderson Asset Protection LLC	17	443 840	71 562	278 408
	UNMIK-Belgrade	G4S Security Solution	2	51 660	15 247	42 170
Subtotal			**19**	**495 500**	**86 809**	**320 578**
Grand total			**3 376**	**16 956 656**	**8 033 805**	**29 512 727**

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Agenda item 129
Review of the efficiency of the administrative and financial functioning of the United Nations

Proposed programme budget outline for the biennium 2014-2015

Report of the Advisory Committee on Administrative and Budgetary Questions

1. The Advisory Committee on Administrative and Budgetary Questions has considered the report of the Secretary-General on the proposed programme budget outline for the biennium 2014-2015 (A/67/529 and Corr.1), which was submitted pursuant to General Assembly resolution 41/213. During its consideration of the report, the Advisory Committee met with representatives of the Secretary-General, who provided additional information and clarification.

2. In section II of his report, the Secretary-General describes how he arrived at the preliminary estimate of resources needed to accommodate the proposed programme of activities for the biennium 2014-2015, which amounts to $5,341.0 million. In paragraph 3, he states that the approved level of resources appropriated by the General Assembly in its resolutions 66/248 A-C, amounting to $5,152.3 million, was taken as the starting point. In annex I to his report, the Secretary-General indicates that, of the total amount of $5,152.3 million appropriated for the biennium 2012-2013, $4,069.3 million relates to activities established under the regular budget, while the remaining $1,083.0 million represent the overall provision for the biennium 2012-2013 for special political missions.

3. From the above-mentioned starting point of $5,152.3 million, the Secretary-General has made a number of adjustments in order to arrive at the final preliminary estimate. With regard to regular budget established activities, he provides for an additional $15.7 million to account for the delayed impact in the biennium 2014-2015 of regular budget posts established during the current biennium. He then subtracts an amount of $77.8 million, comprising $19.3 million corresponding to one-time costs required during the biennium 2012-2013 and $58.5 million corresponding to proposed provisions for resource changes in the biennium 2014-2015 (see paras. 5-8 below). An amount of $220.6 million relating to the

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deferred post-related recosting for inflation and exchange rate fluctuations has also been added for planning purposes (see para. 9 below).

4. Thus, as the Secretary-General indicates in paragraph 22 of his report, growth in real terms reflects an estimated decrease of $62.1 million, or 1.5 per cent, as compared with the approved appropriation for regular budget established activities for the biennium 2012-2013. The Secretary-General indicates in paragraph 4 of his report, however, that preliminary estimates for special political missions reflect an increase of $30.2 million (see para. 12 below). The Advisory Committee notes that, once account is taken of that provision, as well as of the indicative deferred post-related recosting amount of $220.6 million, the total preliminary estimate of $5,341.0 million would represent an increase of $188.7 million, or 3.7 per cent, over the total approved appropriation of $5,152.3 million for the biennium 2012-2013.

5. In paragraphs 10 to 14 of his report, the Secretary-General outlines the proposed provisions for resource changes in the biennium 2014-2015. He indicates that, as reflected in paragraph 38 of the plan outline of the proposed strategic framework for the period 2014-2015 (A/67/6 (Part I)), which is currently under review by the General Assembly, he has introduced new measures aimed at enhancing the transparency, effectiveness and efficiency of the United Nations. Those measures consist of efforts to increase the cost-effectiveness and efficiency of service delivery in the areas of programme support, conference management and public information, as well as the reprioritization of capital projects, while ensuring the effective implementation of mandated activities. The Secretary-General states that further details and specific proposals will be presented in his reports on the proposed programme budget for the biennium 2014-2015. Those proposals will include a review of programme outputs in line with regulation 5.6 of the Regulations and Rules Governing Programme Planning, the Programme Aspects of the Budget, the Monitoring of Implementation and the Methods of Evaluation.

6. The Secretary-General expects that the aforementioned efforts will result in an estimated decrease in resource requirements for the biennium 2014-2015 of $63.1 million. That decrease will be offset by a provision of $4.6 million in respect of mandated conferences for which the modalities are already known, leaving a net total estimated decrease of $58.5 million.

7. Upon enquiry, the Advisory Committee was informed that the proposed resource reduction was based on the Secretary-General's vision of continuing to do more with less by finding sustainable solutions that would make the most efficient use of the Organization's resources without adversely affecting its mandate delivery. Accordingly, a review had been undertaken of non-programme costs, covering both post and non-post objects of expenditure, for support functions that were not directly associated with the delivery of substantive programmes, namely the programme support components for all budget sections, as well as the total budget for part VIII, Common support services. Programme support costs currently represented 20 per cent of the total regular budget (excluding provision for special political missions). Reducing overall programme support costs by 1 per cent would translate into reductions of approximately 5 per cent in each of the programme support components of the budget. The Committee was also informed that programme managers had been requested, in the context of the budget instructions, to identify ways to deliver mandates more effectively and efficiently through the introduction of process improvements and reorganized structures. Programme

managers had also been instructed not to propose reductions through the deferral of planned acquisitions.

8. The Advisory Committee was further informed, upon enquiry, that a similar review of requirements relating to conference services, public information and construction was to be undertaken.

9. The Advisory Committee recalls that the General Assembly, in paragraph 27 of its resolution 66/246, decided to defer consideration of post-related recosting for inflation and exchange rate projections to the first performance report on the budget for the biennium 2012-2013, in order to ensure appropriation of post-related costs in line with actual expenditure experience. The Secretary-General indicates, in paragraph 15 of his report, that the deferred amount of $220.6 million has been included in the preliminary estimate for planning purposes and on the basis of established practice. In paragraph 19 of the report, it is stated that further adjustments to reflect actual rates of inflation and exchange rates during 2012 to date, as well as revised projections for the biennium, will be provided in the context of the first performance report on the budget for the biennium 2012-2013 (A/67/592).

10. With regard to the preliminary estimate of resources for the biennium 2014-2015, the Advisory Committee agrees with the adjustments proposed by the Secretary-General to reflect the delayed impact in the biennium 2014-2015 of regular budget posts established during the current biennium and the non-requirement for resources provided therein 2012-2013 for one-time costs.

11. **With regard to the proposed provisions for resource changes in the biennium 2014-2015, the Advisory Committee welcomes the efforts being undertaken by the Secretary-General to seek further efficiencies through enhancing the cost-effectiveness and efficiency of service delivery. However, the Committee underlines the importance of ensuring that the efficiencies introduced as a result of the above-mentioned review exercises are not ad hoc or reactive, but sustainable. It also expects that the effectiveness of mandate implementation will remain the paramount consideration. The Committee has consistently emphasized the importance of the ongoing review of programmes and business processes to ensure the most effective and efficient implementation of mandates. In this connection, the Committee reiterates its previously expressed concerns about the need to go beyond incremental budgeting and to evaluate and consider the entire quantum of resources necessary to carry out the programmes and activities mandated by the General Assembly and other organs (see A/65/611, para. 6, A/64/7, para. 84, and A/62/7, para. 21).**

12. In paragraph 17 of his report, the Secretary-General estimates that the full biennial provision for special political missions in the biennium 2014-2015 would amount to $1,113.2 million, an increase of $30.2 million over the appropriation of $1,083.0 million for the biennium 2012-2013. According to the Secretary-General, the increase is related to a preliminary assumption regarding the continuation of new missions established in 2012 ($113.2 million). The provision also takes into account the estimated reduction in the resources for 29 missions from the $583 million approved in 2012 to the $500 million proposed in 2013. The proposed provision of $500 million in 2013 for the 29 missions is projected for each year of the biennium 2014-2015. In paragraph 18 of his report, however, the Secretary-General notes that,

since special political missions may be approved at any time of the year, their timing and the related resource requirements have been difficult to predict accurately. Consequently, the preliminary estimate of $1,113.2 million may be subject to change if new missions are established in future.

13. In its resolution 63/266, the General Assembly requested the Secretary-General to provide information on initiatives before the Assembly and on foreseeable items yet to be issued that may have an impact on the budget outline. Annex II to the Secretary-General's report provides a detailed list of items of which the Assembly is currently seized or for which reports are expected to be submitted and the related preliminary estimates known as at 19 October 2012. According to the Secretary-General, those reports, when considered and if adopted by the Assembly, will have an impact on the level of the proposed programme budget for the biennium 2014-2015. Upon request, the Advisory Committee was provided with an updated list, as at 6 December 2012, of such initiatives and their potential financial implications (see annex). The Committee notes that, if the budget outline were to include the estimates in respect of all items currently before the Assembly and foreseeable items in reports yet to be issued, the preliminary estimates would be likely to increase by approximately $154.4 million. **The Committee recommends that the General Assembly take into account the updated information set out in the annex to the present report.**

14. The size of the contingency fund is discussed in paragraph 25 of the Secretary-General's report. **The Advisory Committee recommends approval of the Secretary-General's proposal that, for the biennium 2014-2015, the level of the contingency fund be maintained at 0.75 per cent. The Committee expects that the Secretary-General will ensure that all departments, offices and decision-making bodies are informed of the level of the contingency fund for the biennium 2014-2015.**

15. The Advisory Committee will comment further on the use of the contingency fund during the current biennium in its forthcoming report on the first performance report on the programme budget for the biennium 2012-2013. **With a view to planning for the proposed programme budget for the biennium 2014-2015, the Committee recalls that the contingency fund is intended to accommodate additional expenditures relating to the biennium derived from legislative mandates not provided for in the proposed programme budget or from revised estimates. The Committee emphasizes the need to adhere strictly to the provisions of General Assembly resolutions 41/213 and 42/211 on the use of the fund.**

16. **With regard to the presentation of the budget outline document, the Advisory Committee notes that the financial implications of some items in the Secretary-General's report are listed as "to be determined" while others are specified. The Committee takes the view that, for the purposes of consistency of presentation, the potential impact on the proposed outline of all items that have yet to be considered by the General Assembly should be reflected in the report in the same manner.**

Annex

Impact of items before the General Assembly and foreseeable items yet to be considered on the proposed programme budget outline for the biennium 2014-2015[a]

(Thousands of United States dollars)

Proposed programme budget outline for the biennium 2014-2015		
Appropriations for the biennium 2012-2013[b]		5 152 299.6
Plus: delayed impact of posts and non-post resources approved in the biennium 2012-2013	15 667.4	
Less: one-time costs in the biennium 2012-2013	(19 262.9)	
Less: proposed provisions for resource changes in the biennium 2014-2015	(58 528.4)	
Subtotal, real growth compared with the appropriation for the biennium 2012-2013	**(62 123.9)**	
Plus: deferred post-related resources for inflation and exchange rate (for planning purposes)	220 668.9[c]	
Overall changes for established activities		158 545.0
Subtotal		**5 310 844.6**
Additional provision required for special political missions at the current programme level[d]	30 200.0	
Preliminary estimate for the biennium 2014-2015		**5 341 044.6**
First performance report (A/67/592)		
Additional appropriation		
(a) Unforeseen and extraordinary expenses	5 089.2	
(b) Revised estimates currency and inflation	(23 765.2)	
(c) Revised estimates for vacancy rate, and adjustments to standard costs	61 346.1	
Advisory Committee	TBD	
First performance report	42 670.1	
Not required for the biennium 2014-2015	(5 089.2)	
Total, net first performance report	**37 580.9**	**37 580.9**
Revised estimates (reports to be considered at the sixty-seventh session of the General Assembly)[e]		
Report of the Secretary-General on the administration of justice at the United Nations (A/67/265 and Corr.1) (2012-2013)	1 793.9	
Advisory Committee (A/67/547)	–	
Delayed impact or requirements for the biennium 2014-2015	–	
One-time cost in 2012-2013 not required in the biennium 2014-2015	(1 793.9)	
Total, administration of justice	–	

Proposed programme budget outline for the biennium 2014-2015	
Report of the Secretary-General on amendments to the rules of procedure of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal (2012-2013) (A/67/349)	–
Advisory Committee (A/67/547)	(264.3)
Delayed impact or requirements for the biennium 2014-2015	264.3
One-time cost in 2012-2013 not required in the biennium 2014-2015	–
Total, United Nations Dispute Tribunal/United Nations Appeals Tribunal	**–**
Revised estimates resulting from resolutions and decisions adopted by the Economic and Social Council at its organizational and substantive sessions of 2012 (A/67/503)	992.1
Advisory Committee (A/67/577)	(992.1)
Delayed impact or requirements for the biennium 2014-2015	–
One-time cost in 2012-2013 not required in the biennium 2014-2015	–
Total, Economic and Social Council	**–**
Report of the Secretary-General on the revised estimates resulting from resolutions and decisions adopted by the Human Rights Council at its nineteenth to twenty-first sessions (A/67/607) (2012-2013)[f]	7 532.0
Advisory Committee	TBD
Delayed impact or requirements for the biennium 2014-2015	985.4
One-time cost in 2012-2013 not required in the biennium 2014-2015	–
Total, 19th to 21st sessions of the Human Rights Council	**8 517.4**
Report of the Secretary-General on the implications of the decisions and recommendations of the outcome document of the United Nations Conference on Sustainable Development (A/67/591) (2012-2013)	8 766.3
Advisory Committee	TBD
Delayed impact or requirements for the biennium 2014-2015	10 386.8
One-time cost in 2012-2013 not required in the biennium 2014-2015	(8 766.3)
Total, United Nations Conference on Sustainable Development	**10 386.8**
Fourth progress report on the enterprise resource planning project (A/67/360) (2012-2013)	–
Advisory Committee (A/67/565)	–
Delayed impact or requirements for the biennium 2014-2015	35 927.9
One-time cost in 2012-2013 not required in the biennium 2014-2015	–
Total, Umoja	**35 927.9**
Fifth progress report on adoption of the International Public Sector Accounting Standards (A/67/344) (2012-2013)	–
Advisory Committee (A/67/564)	–
Delayed impact or requirements for the biennium 2014-2015	–

Proposed programme budget outline for the biennium 2014-2015	
One-time cost in 2012-2013 not required in the biennium 2014-2015	–
Total, International Public Sector Accounting Standards	–
Statement submitted by the Secretary-General on the administrative and financial implications of the decisions and recommendations contained in the report of the International Civil Service Commission for the year 2012 (A/C.5/67/3)[g]	–
Advisory Committee (A/67/573)	–
Delayed impact or requirements for the biennium 2014-2015	4 680.0
One-time cost in 2012-2013 not required in the biennium 2014-2015	–
Total, International Civil Service Commission	**4 680.0**
Committee against Torture (A/67/44) (2012-2013)	1 464.9
Advisory Committee	TBD
Delayed impact or requirements for the biennium 2014-2015	1 464.9
One-time cost in 2012-2013 not required in the biennium 2014-2015	(1 464.9)
Total, Committee against Torture	**1 464.9**
Financial implications/oral statements emanating from Main Committees at the sixty-seventh session of the General Assembly[e]	
Draft resolution A/67/L.25 (Education for Democracy)	113.2
Draft resolution A/C.1/67/L.41 (Treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices)	1 023.3
Draft resolution A/C.1/67/L.48 (The illicit trade in small arms and light weapons in all its aspects)	582.0
Draft decision A/C.1/67/L.58 (Open-ended Working Group on the Fourth Special Session of the General Assembly Devoted to Disarmament)	535.7
Draft resolution A/C.2/67/L.40 (Follow-up to and implementation of the Mauritius Strategy for the Further Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States)	520.5
Draft resolution A/C.2/67/L.39 (Specific actions related to the particular needs and problems of landlocked developing countries: outcome of the International Ministerial Conference of Landlocked and Transit Developing Countries and Donor Countries and International Financial and Development Institutions on Transit Transport Cooperation)	914.9
Draft resolution A/C.2/67/L.44 (Report of the Governing Council of the United Nations Environment Programme on its twelfth special session and on the implementation of section IV.C entitled "Environmental pillar in the context of sustainable development" of the outcome document of the United Nations Conference on Sustainable Development). Figure is based on gross requirements	37 828.3
Draft resolution A/C.3/67/L.25 (Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto) (2012-2013)	6 313.4
Draft resolution A/C.2/67/L.53 (Follow-up to the Fourth United Nations Conference on the Least Developed Countries)	4 347.2
Draft resolution A/C.2/67/L.51 (Smooth transition for countries graduating from the list of least developed countries)	50.9
Draft resolution A/C.2/67/L.34/Rev.1 (Entrepreneurship for development)	50.9

Proposed programme budget outline for the biennium 2014-2015		
Draft resolutions A and B and draft decision B of the report on the Committee on Information (A/67/21)	TBD	
Draft resolution A/C.3/67/L.23/Rev.1 (Rights of the child)	TBD	
Draft resolution A/C.3/67/L.35 (Committee on the Rights of the Child) (2012-2013)	3 596.6	
Financial implications for conferences scheduled for the biennium 2014-2015 for which modalities will be determined at the sixty-seventh session of the General Assembly (2012-2013)		
Preparatory work for the third United Nations conference on housing and sustainable urban development (Habitat III)	TBD	
Ten-year review of the implementation of the outcome of the World Summit on the Information Society	TBD	
Total, special conferences	**TBD**	
Reports anticipated at resumed parts of the sixty-seventh session and main part of the sixty-eighth session of the General Assembly		
Strategic heritage plan	TBD	
After-service health insurance	TBD	
Implications on the proposed programme budget for the biennium 2014-2015 stemming from the analysis of the functions of UN-Women pursuant to resolution 65/259	TBD	
Total	**TBD**	
Preliminary estimates relating to revised estimates and programme budget implications that will affect the budget outline to be adopted		**154 434.8**

Abbreviation: TBD: to be determined.

[a] Formulated on information available as at 6 December 2012 and subject to change.

[b] Includes the initial appropriation (General Assembly resolutions 66/248 A-C).

[c] The Advisory Committee notes that the figure for post-related recosting for inflation and exchange rates is indicative and differs from that included in the first performance report on the programme budget for the biennium 2012-2013 (A/67/592). The Committee was informed, upon enquiry, that the amount of $220.6 million for deferred post-related recosting for the biennium 2012-2013 was derived from projected rates as reflected in the Secretary-General's report, Revised estimates: effects of changes in rates of exchange and inflation, dated 15 December 2011 (A/66/614). The Committee was further informed that the amount of $263.3 million in the Secretary-General's first performance report on the programme budget for the biennium 2012-2013 (A/67/592) reflected adjustments due to variations in costing parameters assumed at the time of the initial appropriation for both post and non-post resources, and also included additional mandates approved by the General Assembly and the Security Council after the approval of the budget appropriation, unforeseen and extraordinary items that could not be deferred to the following biennium and decisions of policymaking organs. The figure of $120.8 million for post-related recosting included in the first performance report reflected only the post-related actual expenditure experience for 2012.

[d] Reflects current mandates for the biennium 2012-2013 adjusted for expected discontinuation of missions and provisions for new missions in the biennium 2012-2013.

[e] Decisions of the Fifth Committee not factored in.

[f] Requirements based on estimates known as at 6 December 2012 and subject to further adjustments.

[g] Should the General Assembly approve the recommendations of the Commissions, requirements of $2.3 million will be considered in context of the performance reports for the biennium 2012-2013.

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Agenda item 73
Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Security Council
Sixty-seventh year

Letter dated 6 December 2012 from the Permanent Representative of Serbia to the United Nations addressed to the Secretary-General

I have the honour to forward, enclosed herewith, the information on the Republic of Serbia's cooperation with the International Criminal Tribunal for the Former Yugoslavia (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda item 73, and of the Security Council.

(*Signed*) Feodor **Starčević**

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Annex to the letter dated 6 December 2012 from the Permanent Representative of Serbia to the United Nations addressed to the Secretary-General

National Council for Cooperation with the International Criminal Tribunal for the Former Yugoslavia, Republic of Serbia

Information on the Cooperation of the Republic of Serbia with the International Criminal Tribunal for the Former Yugoslavia

Summary

- With the arrest of the accused Goran Hadzić on 22 July 2011, the Republic of Serbia completed its cooperation with the Tribunal in the part regarding the transfer of the accused. The Republic of Serbia transferred to the Tribunal 45 of the 46 indictees accused of war crimes, while one person committed suicide prior to his transfer. Among the accused transferred to the Tribunal are two former Presidents of the Republic, former Prime Minister and former Vice Prime Minister, three former Chiefs of Staff of the Army, a former Chief of the State Security Service and numerous military and police generals.
- The Republic of Serbia has replied to nearly all of the 2,115 requests for assistance received from the Office of the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia.
- Of the legal defence teams' 1,212 requests for assistance, received between the end of 2004 and present, the Republic of Serbia replied to nearly all.
- Not one of the requests for assistance from the Office of the Prosecutor or the legal defence teams for accessing the State archives has been denied.
- All witnesses requested to give testimony before the Tribunal by the Office of the Prosecutor and legal defence teams have been given waivers.
- All of the Tribunal's summonses and other documents in writing have been distributed to the individuals residing on the territory of the Republic of Serbia.
- All of the Tribunal's requests for witness protection have been realized in cases when witnesses were residing on the territory of the Republic of Serbia's jurisdiction.
- Conditions set out for the accused on provisional release have been respected impeccably and at all times and the accused have been transferred to the Tribunal in accord with the decisions of the Trial Chambers.
- According to the Republic of Serbia Office of the War Crimes Prosecutor, altogether 395 individuals suspected of criminal offences against international humanitarian law have been prosecuted before the national judicial institutions in charge.

- **The International Criminal Tribunal for the Former Yugoslavia Appeals Chamber's judgment of acquittal of Ante Gotovina and Mladen Markac of 16 November 2012, which released Gotovina and Markac from responsibility in relation to the crimes perpetuated against the Serbian civilian population by the Croatian forces in operation *Oluja*, as well as the Trial Chamber's judgment of acquittal of 29 November 2012 following the retrial of the accused Ramush Haradinaj, Idriz Balaj and Lahi Brahimaj, resulted in the resentment of the Republic of Serbia and motivated the decision of the Government of the Republic of Serbia to reduce future cooperation with the Tribunal to the technical level.**

I. Introduction

1. In order to fulfil its international obligations and establish full cooperation with the International Criminal Tribunal for the Former Yugoslavia, the Republic of Serbia adopted a set of regulations, established new governmental agencies and complemented the already existing governmental bodies with new departments and units.

2. Cooperation between the Republic of Serbia and the Tribunal has included, since the very beginning of the cooperation process and in addition to the surrender of the accused, manifold other aspects, such as production of the documents for the needs of the proceedings; waivers for the witnesses in order for the witnesses to give statements before the Tribunal; delivery of summonses and other written documents to individuals residing on the territory of the Republic of Serbia; protection of witnesses and their families; supervision of the accused who are granted provisional release and who during that time reside on the territory of the Republic of Serbia; correspondence and direct contacts with the Office of the Prosecutor, the Registry, the President and Trial Chambers of the Tribunal, including all technical assistance, as well as direct cooperation between the Republic of Serbia Office of the War Crimes Prosecutor and the Office of the Prosecutor of the Tribunal through the exchange of data from the electronic databases of the two Offices.

II. Arrests and surrenders of the accused

A. Arrests and surrenders of the accused and voluntary surrenders

3. Fourteen of the indictees were arrested in the Republic of Serbia: Slobodan Milošević, Jovica Stanišić, Franko Simatović, Veselin Šljivancanin, Milomir Stakić, Predrag Banović, Nenad Banović, Vladimir Kovačević, Ranko Ćešić, Dražen Eredmović, Radovan Karadzić, Stojan Župljanin, Ratko Mladić and Goran Hadzić.

4. In the course of cooperation between the national and foreign security services, Milan Lukić was arrested in Argentina, Dragan Zelenović in the Russian Federation, Zdravko Tolimir in Bosnia and Herzegovina and Vlastimir Djordjević in Montenegro.

5. One of the accused (Vlajko Stojiljković) committed suicide in Belgrade.

6. Twenty-seven of the Tribunal indictees surrendered voluntarily: Milan Milutinović, Dragoljub Ojdanić, Nikola Šainović, Vojislav Šešelj, Mile Mrkšić, Gojko Janković, Milan Gvero, Radivoje Miletić, Momčilo Perišić, Pavle Strugar, Miodrag Jokić, Milan Martić, Miroslav Radić, Blagoje Simić, Željko Mejakić, Momčilo Gruban, Mitar Rašević, Ljubiša Beara, Dragomir Milošević, Mićo Stanišić, Vladimir Lazarević, Ljubomir Borovčanin, Drago Nikolić, Vinko Pandurević, Vujadin Popović, Nebojša Pavković and Sreten Lukić.

7. All of the citizens of the Republic of Serbia indicted before the Tribunal who surrendered voluntarily to the Tribunal were granted guarantees from the Government of the Republic of Serbia for the purposes of pretrial and provisional releases. The assumed responsibilities of the Government in relation to the guarantees given have been impeccably respected at all times and the accused have

been, without exception, transferred to the Tribunal in accordance with the time frames postulated by the Tribunal's Trial Chambers.

8. It is important to state that the Republic of Serbia transferred 45 out of 46 indictees to the Tribunal, including high-ranked representatives and officials like the President of the Federal Republic of Yugoslavia, the President of the Republic of Serbia, the Vice-President of the Federal Government, the Vice-President of the Government of the Republic of Serbia, three former Chiefs of Staff of the Yugoslav Army, the Chief of the State Security Service, as well as numerous army and police generals. One of the accused committed suicide before he could be transferred to the Tribunal.

B. Latest arrests

9. With the arrests of Ratko Mladić and Goran Hadzić in the Republic of Serbia on 26 May 2011 and 20 July 2011 and their transfer to the Tribunal in The Hague, the Republic of Serbia completed its cooperation with the Tribunal in respect of the transfer of the accused.

III. Cooperation regarding production of documents, access to the archives, witnesses and intelligence activities

A. Production of documents to the Tribunal

10. Since the establishment of the cooperation process between the Republic of Serbia and the Tribunal, the Republic of Serbia has received 2,115 requests for assistance from the Office of the Prosecutor of the Tribunal. The subjects of the aforementioned requests have been production of documents needed for the Office's preparation of proceedings before the Tribunal, visits to the State archives of the Republic of Serbia and waivers of the Office's witnesses.

11. Most of the requests received by the Republic of Serbia have been complied with in their entirety, while some requests of a later date are still being responded to. It should be emphasized that the aforesaid can be verified by the fact that during the meetings organized between the representatives of the National Council for Cooperation with the International Criminal Tribunal for the Former Yugoslavia and the Office of the Prosecutor of the Tribunal in the period from 2009 to 2012 it was concluded that there were no outstanding requests for assistance, while the aforementioned was additionally confirmed in the regular reports of the Chief Prosecutor of the Tribunal to the Security Council of the United Nations in the last four years.

12. In regard to the total number of 1,212 requests for assistance received from the legal defence teams from the end of 2004 to the present, the Republic of Serbia has replied to almost all of the requests in their entirety, while the more recent requests are in the process of being responded to.

B. Access to the State archives of the Republic of Serbia

13. Representatives of the Office of the Prosecutor of the Tribunal have several times had access to the archives of the Ministry of Defence, the Cabinet of the President of the Republic of Serbia, the State Security Agency, the Ministry of the Interior and other State departments in charge. More precisely, representatives of the Office visited the State archives of the Republic of Serbia regarding 52 requests for assistance.

14. On the other hand, in the period from June 2007 to the present, representatives of the legal defence teams of the accused before the Tribunal have accessed the State archives of the Republic of Serbia regarding 36 requests for assistance.

15. It should be emphasized that not one request for assistance of the Office of the Prosecutor or the legal defence teams to access the Republic of Serbia State archives has been denied and that neither the Office of the Prosecutor nor the defence teams had unlimited access to the archives.

C. Witness waivers

16. In order for some individuals who came into possession of certain information and data representing State, official and/or military secrets to appear as witnesses before the Tribunal and testify in the particular proceedings, the Government of the Republic of Serbia has to decide on their waivers. Since the establishment of the National Council for Cooperation with the Tribunal to the present time, more than 750 witnesses have been given waivers in relation to State, official and military secrets, which enabled them to testify before the Tribunal. This number of witnesses encompasses the total number of individuals who gave their testimonies before the Tribunal in the capacities of witnesses of the prosecution, legal defence teams and the Trial Chambers. It is important to recognize that every individual requested by the Office of the Prosecutor or the legal defence teams, without exclusion, has been given a waiver and therefore was in a position to give his/her testimony before the Tribunal.

17. Taking into consideration all of the aforementioned, the Republic of Serbia considers that full cooperation regarding the requests for assistance of the Tribunal related to technical assistance has been achieved.

D. Intelligence activities

18. Activities of the Ministry of the Interior of the Republic of Serbia and activities of other security services participating in the cooperation with the Tribunal include, among others, the following.

19. **Searches for the individuals indicted before the Tribunal.** All of the accused have been transferred to the Tribunal.

20. **Realization of the requests for assistance related to identification, location, distribution of summonses and provisions of witnesses' presence in the Tribunal's proceedings.** In the period from June 2007 to 30 June 2012, the Ministry of the Interior acted upon eight Tribunal orders for contempt of the

Tribunal, 108 summonses and 36 subpoenas related to the ongoing proceedings before the Tribunal.

21. **Supervision and reporting about personal safety protection and protection of the Tribunal witnesses and their family members.** In the period from June 2007 to the present, following the requests of the Office of the Prosecutor and through cooperation with the Ministry of the Interior's Witness Protection Unit and other departments of the Ministry, protection was provided to 10 of the Tribunal's witnesses and members of their families.[1] All cases of witness protection were carried out without difficulty. In the period from 1 June 2011 to 7 June 2012, four witnesses and members of their families have been under supervision of the Witness Protection Unit.

22. **Transfer and supervision of the individuals granted provisional release; reporting about the implementation of the provisional release conditions.** In the period from June 2007 to the present, the Witness Protection Unit of the Ministry of the Interior has acted upon the decisions of the Tribunal's Trial Chambers regarding the transfer and supervision of indictees on provisional release. From August 2011 to 30 June 2012, the Unit supervised four indictees on provisional release.

IV. War crimes trial before the national jurisdiction, residual functions of the Tribunal and other activities

A. War crimes trials before the national jurisdiction

23. The completion strategy of the Tribunal is based on Security Council resolutions 1503 (2003) and 1534 (2004) and resolution 1966 (2010), by which the Council established the International Residual Mechanism for Criminal Tribunals. The main condition for the completion strategy to be feasible is the existence of national judiciaries capable of conducting criminal cases of violations of international law and crimes against humanity according to international legal standards. This was the reason why on 1 July 2003 the National Assembly of the Republic of Serbia adopted the Law on Organization and Competence of State Bodies in War Crimes Proceedings. According to this law, the War Crimes Chamber of the Belgrade District Court (from 1 January 2010: War Crimes Department of the Higher Court in Belgrade), the Office of the War Crimes Prosecutor of the Republic of Serbia and the War Crimes Investigation Service within the Ministry of the Interior were established, together with the War Crimes Panel of the Supreme Court of Serbia (from 1 January 2010: War Crimes Department of the Appellate Court in Belgrade), which is responsible for war crimes cases in second instance. In addition to the aforementioned, the National Assembly of the Republic of Serbia adopted on

[1] Witness protection was granted in all cases when requested by the Tribunal, except in one case in connection with *Prosecutor v. Ramush Haradinaj et al*. In this particular request for assistance, the Office of the Prosecutor requested witness protection for an individual who was still an active member of the Republic of Serbia's Ministry of the Interior. After consultations with this witness and an evaluation of his personal security, it was concluded that witness protection in this particular case was not necessary, which was the opinion of the witness as well. The Tribunal was informed in due time about the events described. In conclusion, the Republic of Serbia responded to every request for assistance regarding protection of witnesses in the Tribunal's proceedings.

5 November 2007 the Amendments to the Law on Organization and Competence of State Bodies in War Crimes Proceedings. According to this law, jurisdiction in cases against persons indicted for aiding the indictees of the International Criminal Tribunal for the Former Yugoslavia is transferred to the specialized institutions for investigation of war crimes (the War Crimes Investigation Service of the Ministry of the Interior, the Office of the War Crimes Prosecutor of the Republic of Serbia and the War Crimes Department of the Higher Court in Belgrade).

24. Since the adoption of the Law on Organization and Competence of State Bodies in War Crimes Proceedings, 395 individuals suspected of involvement in war crimes on the territory of the former Yugoslavia have been processed.[2] These proceedings are in different phases, from those in the investigation stage to those finalized in the second instance. The best known cases from this group are the following: "Osvetnici", "Štrpci", "Ovčara", "Zvornik", "Škorpioni", "Suva Reka" (the "Batajnica" case), "Podujevo", "the Bytyqi Brothers", "Anton Lekaj", "Ilija Jurišić" and "Lovas". Both the War Crimes Department of the Higher Court in Belgrade and the Office of the War Crimes Prosecutor of the Republic of Serbia have shown a high level of professionalism and technical capability for processing the aforementioned cases in accordance with international legal standards. The aforesaid is verified by the Tribunal's referral of some cases to national jurisdiction while the cases were in the investigative phase. The best known of these cases are *Zvornik*, *Skoripioni* and *Ovacara*. In addition, according to rule 11 bis of the Rules of Procedure and Evidence, which allows referral of the case in which an indictment has been confirmed to another court, the International Criminal Tribunal for the Former Yugoslavia referred to the Republic of Serbia the case against the accused Vladimir Kovačević Rambo. At the end, it should be emphasized that the Office of the Prosecutor of the Tribunal signed a memorandum of understanding with the Office of the War Crimes Prosecutor of the Republic of Serbia regarding access to the archives of the Office of the Prosecutor of the Tribunal.

25. In regard to regional cooperation, it is significant that the Office of the War Crimes Prosecutor of Serbia maintains regular contacts and strengthens cooperation with the prosecutors' offices of Montenegro, Croatia and Bosnia and Herzegovina. The Office of the War Crimes Prosecutor of Serbia formally established means of cooperation through memorandums of understanding. Cooperation among the regional prosecutions, including the exchange of evidence, documents and data, reflects the common interest of Serbia, Croatia, Bosnia and Herzegovina and Montenegro in conducting more thorough proceedings before national jurisdictions for criminal offences against humanity and violations of international humanitarian law.

[2] According to the data presented by the Republic of Serbia Office of the War Crimes Prosecutor, 152 individuals have been indicted before the juridical departments of the Republic of Serbia. Twenty-nine proceedings against 72 individuals have been concluded, in which 61 individuals were convicted and 11 acquitted. At the present there are eight ongoing proceedings against 46 individuals before the Court of Appeal in Belgrade and eight proceedings against 29 individuals before the War Crimes Chamber of the Higher Court in Belgrade. In addition, 25 cases against 76 individuals are in the investigative phase, while total number of the victims in the ongoing proceedings is 2,878.

B. Residual functions of the Tribunal

26. The completion strategy of the International Criminal Tribunal for the Former Yugoslavia was determined by Security Council resolutions 1503 (2003) and 1534 (2004), which envisaged the completion of all trial activities at first instance by the end of 2008, and all appeals by 2010. Following the idea of the completion strategy, the Tribunal identified 12 basic functions that should be considered with great care within the residual mechanism that would follow the completion of its activities. The issue of the Tribunal's archives is described as one of the most important functions. Authorities of the Republic of Serbia have been actively participating in the dialogue related to the residual functions, particularly as it relates to the Tribunal's archives.

27. The Government of the Republic of Serbia adopted on 23 October 2008 the official position in relation to the Tribunal's archives. This position was transmitted to the Tribunal and the Security Council.

28. The Government of the Republic of Serbia adopted on 13 March 2009 the official position in relation to the issues related to the residual mechanism and completion strategy of the Tribunal. This position was transmitted to the Security Council.

29. On 22 December 2010, the Security Council adopted resolution 1966 (2010), by which it established the International Residual Mechanism for Criminal Tribunals. This resolution envisages that the Residual Mechanism has two branches, one for the International Criminal Tribunal for the Former Yugoslavia and one for the International Criminal Tribunal for Rwanda. The starting date of the Residual Mechanism branch for the International Criminal Tribunal for the Former Yugoslavia is 1 July 2013, while both Tribunals are expected to undertake all possible efforts to finish their activities by 31 December 2014. The Republic of Serbia will continue to actively participate in this matter.

C. Initiative that citizens of the Republic of Serbia, convicted before the Tribunal, be referred to Serbia to serve their prison sentences

30. States established on the territory of the former Yugoslavia do not have the possibility to sign an agreement on enforcement of sentences with the Tribunal, which is a consequence of the recommendation of the Secretary-General of the United Nations from May 1993. In his report to the Security Council dated 3 May 1993, the Secretary-General emphasized that "given the nature of crimes in question and the international character of the tribunal, the enforcement of sentences should take place outside the territory of the former Yugoslavia" (S/25704, para. 121). Although this opinion could have been justified in 1993, in the period of wars on the territory of the former Yugoslavia, it is clear that the strength of this statement is not the same as in 1993 since the circumstances have changed. The Republic of Serbia has been pressing since 2009 for approval to sign an agreement on enforcement of prison sentences with the Tribunal. This type of agreement has been signed by 17 European States. The necessary precondition for this initiative to be realized is that the Secretary-General formally provide a new opinion to the Security Council in regard to this issue.

31. In this regard, the President of the National Council for Cooperation with the International Criminal Tribunal has addressed, on several occasions, officials of the United Nations and the Tribunal; however, these attempts did not lead to any significant response. The most important reason for this state of affairs is the fact that a positive recommendation of the Tribunal in regard to this issue is necessary, which has still not been provided. However, the officials of the Tribunal have not provided their support to this initiative so far in fear that the convicts would have privileged treatment in the States of the former Yugoslavia.

32. The primary motive of this initiative is the determination of the Republic of Serbia to assume responsibility for enforcement of prison sentences of Serbian citizens convicted before the Tribunal. In addition, it should be emphasized that the purpose of the punishment, among others, includes the re-socialization of the convicts. In this connection, we consider it unlikely that the punishment will achieve its purpose if convicts serve their sentences in remote countries, without knowing the language and where the possibility of visits of family members and contacts with families are reduced to a minimum. As an example, we would like to present the fact that two citizens of the Republic of Serbia, Milan Martic and Dragomir Milosevic, are in prisons of Estonia, where they have been transferred for enforcement of their prison sentences.

33. The Republic of Serbia would like to reiterate its readiness to accept its citizens convicted before the International Criminal Tribunal for the Former Yugoslavia for the enforcement of sentences, as well as other persons convicted before the Tribunal who are willing to serve their prison sentences in Serbia, as well as to present its guarantees that it will provide full security of the locations where the sentences will be enforced. Having this in mind, we would like to stress that the Republic of Serbia is willing to accept international monitoring in regard to the enforcement of the prison sentences of the convicts in question, which would be precisely defined during the future negotiations on this subject. In addition, Serbia would like to stress its readiness to offer firm guarantees that the convicted individuals will not be granted potential early provisional release or parole without the relevant decisions either of the Tribunal or the International Residual Mechanism for Criminal Tribunals or, finally, some other future authorized United Nations body.

34. The following facts support the initiative in question:

(a) The results achieved by the Republic of Serbia in the cooperation with the Tribunal. With the transfer of Ratko Mladić and Goran Hadzić to the Tribunal, Serbia completed the part of cooperation with the Tribunal related to the surrender of the accused. In regard to the provision of documents, access to the archives of the State and witnesses, cooperation between the Republic of Serbia and the Tribunal has been maintained on a very high level for quite a long time, which was confirmed in the regular reports of the Tribunal's officials to the Security Council in the last four years;

(b) The Republic of Serbia has achieved significant results before the national courts in the proceedings for grave breaches of international humanitarian law that happened during the armed conflicts at the territory of the former Yugoslavia. To date, 395 individuals suspected of involvement in war crimes on the territory of the former Yugoslavia have been processed;

(c) On 20 January 2011, the Republic of Serbia signed an agreement on the enforcement of sentences with the International Criminal Court, according to which individuals convicted for war crimes, crimes against humanity and genocide can serve their prison sentences in the prisons of the Republic of Serbia. It should be noted that the Republic of Serbia is the first State of South-East Europe to have signed an agreement of this kind with the International Criminal Court, and that the United Kingdom of Great Britain and Northern Ireland, Austria, Belgium, Denmark and Finland are the only States preceding Serbia in this act.

35. In addition, it should be emphasized that the President of the Tribunal, Judge Theodor Meron, has spoken on several occasions about the unwillingness of States to sign an agreement with the Tribunal on the enforcement of prison sentences, and of those that had already signed an agreement to accept new convicts. It is also very difficult to explain that Albania has signed this agreement while, for instance, Slovenia, a member of the European Union, was not allowed to do the same since it is a State established on the territory of the former Yugoslavia.

Review of the activities related to the initiative of the Republic of Serbia that citizens of Serbia, convicted before the Tribunal, be referred to Serbia for serving their prison sentences

36. In March 2009, the President of the National Council for Cooperation with the International Criminal Tribunal for the Former Yugoslavia addressed the Secretary-General of the United Nations and the President and Registrar of the Tribunal on the subject of the initiative assumed by the Republic of Serbia for referring the citizens of the Republic of Serbia convicted before the Tribunal to serve their prison sentences in Serbia.

37. During the visit of Judge Robinson, at the time the President of the Tribunal, to the Republic of Serbia in July 2009, the issue of the enforcement of prison sentences was raised at all meetings the President had in Belgrade. Judge Robinson emphasized at the time that similar requests had been received from the Republic of Slovenia and the Republic of Croatia.

38. Following additional consultations with the legal department of the United Nations in September 2009, the President of the National Council for Cooperation with the Tribunal addressed the Under-Secretary-General for Legal Affairs and Legal Counsel on 5 November 2009 on the subject of this initiative. In the reply of the Under-Secretary-General for Legal Affairs and United Nations Legal Counsel of 16 December 2009 it was emphasized that the Secretary-General was generally of the opinion that the issue of the enforcement of the sentences in the region should be reviewed. In addition, it was stated that the Secretary-General had requested a complete evaluation of the Tribunal in regard to the possibility of the prison sentences being served in the countries established on the territory of the former Yugoslavia and that the Tribunal was preparing a report covering all of the States established on the territory of the former Yugoslavia. At the end of the letter it was suggested that the Security Council needed to be informed about that initiative, since the Security Council would have the final word in this matter.

39. Taking into consideration the aforementioned, the President of the National Council for Cooperation with the Tribunal, following the conclusion of the National Council, addressed the President of the Security Council on 19 January 2010. The aforementioned initiative was a subject of discussion at the meetings between the

Director of the Office of the National Council and representatives of the Office of Legal Affairs of the United Nations in December 2010 and June 2011.

40. Following these events, the President of the National Council, following the conclusion of the National Council, reiterated his address to the Secretary-General of the United Nations on 20 June 2011.

41. The Secretary-General did not reply to this letter. At the meeting with the assistant of the Secretary-General of the United Nations for legal affairs in December 2011, the Director of the Office of the National Council for Cooperation with the International Criminal Tribunal for the Former Yugoslavia reiterated the importance of this initiative. The assistant for legal affairs replied that he was familiar with the position of the Republic of Serbia in regard to this issue, that he had full understanding of them and that this matter continued to remain dependent on the opinion of the officials of the Tribunal.

42. On 3 December 2012, the President of the National Council for Cooperation with the International Criminal Tribunal for the Former Yugoslavia addressed once again the Secretary-General of the United Nations on this issue, as well as the President of the International Criminal Tribunal for the Former Yugoslavia.

43. It can be said that this issue has been on the agenda of almost all meetings held between the representatives of the National Council and the Office of the National Council for Cooperation with the International Criminal Tribunal for the Former Yugoslavia and the representatives of the Tribunal.

V. Continuation of the Cooperation between the Republic of Serbia and the Tribunal

44. The Republic of Serbia supports the accomplishment of the full truth about the crimes that were perpetrated during the armed conflicts on the territory of the former Yugoslavia, which includes punishing those responsible for the crimes, regardless of their nationality and regardless of the nationality of the victims.

45. Because of the aforementioned, the judgment of the Appeals Chamber of the International Criminal Tribunal for the Former Yugoslavia of 16 November 2012 acquitting Ante Gotovina and Mladen Markac of responsibility in relation to the crimes perpetuated against the Serbian civilian population during the Croatian forces' operation *Oluja*, together with the Trial Chamber's judgment of acquittal of 29 November 2012 following the retrial of the accused Ramush Haradinaj, Idriz Balaj and Lahi Brahimaj, resulted in the resentment of the Republic of Serbia and motivated the decision of the Government of the Republic of Serbia to reduce future cooperation with the Tribunal to the technical level.

46. This judgment, which justifyingly incited very negative reactions on the part of both officials of the Republic of Serbia and international experts, caused great damage to, foremost, the families of the victims of the crimes that clearly had been perpetrated during the operation *Oluja*, and, consequently, to international justice and the efforts that were invested in reaching reconciliation among the people in the region of the Western Balkans.

47. It is important to emphasize several compelling facts and controversies related to this judgment. The judgment was rendered by three votes to two of the Appeals

Chamber judges, accompanied by the unusually fierce tone of the two judges who provided their dissenting opinions. In that manner, Judge Fausto Pocar, former President of the Tribunal and one of the judges giving a dissenting opinion, emphasized that this verdict "contradicts any sense of justice" and described it as "grotesque". It is also surprising that the majority of the judges of the Appeals Chamber of the Tribunal, which was established by the United Nations, have little confidence in generals and other officials of high rank coming from the United Nations Member States, who were in the field under the United Nations flag during the time of the events that were the subject of the Trial Chamber's decision and who gave their testimonies in relation to these events before the Trial Chamber. In addition, both the former and present Prosecutor of the Tribunal expressed their disappointment in relation to this judgment and emphasized that the verdict does not represent justice.

48. On the other hand, when we talk about the effects of this judgment, we have to emphasize that, considering the results of the Tribunal's practice, the Tribunal has not sentenced and will not sentence anyone for the crimes perpetuated against the civilian population in operation *Oluja*, regardless of the fact that the Tribunal had found in its judgments, with absolute certainty, that the crimes were committed during this time. It should be emphasized that this is not the first time that the Tribunal concludes in its practice that the crimes occurred, but that neither the indictees nor anyone else is found responsible of the crimes that were perpetrated.

49. The judgment of acquittal in the proceedings *Prosecutor v. Ramush Haradinaj, Idriz Balaj and Lahi Brahimaj* that was rendered on the retrial based on the six counts of indictment for the crimes perpetrated in the so-called Kosovo Liberation Army camp in Jablanica in Kosovo and Metohija in 1998 has similar effects. These proceedings were accompanied from the very beginning by mistakes on the part of the Office of the Prosecutor and the acting Trial Chambers of the International Criminal Tribunal for the Former Yugoslavia (foremost the first acting Trial Chamber). This Trial Chamber allowed provisional release for Haradinaj and his engagement in political activities, which represents a unique case in the Tribunal, although at the time the Tribunal must have been aware of the fact that there was a problem in witness protection in relation to this case. The attitude of the representatives of the United Nations Interim Administration Mission in Kosovo (UNMIK) towards this case and the accused Haradinaj was very strange as well. In spite of the obvious problems, UNMIK offered guarantees for Haradinaj's provisional release, while the UNMIK chief at the time, Soren Jessen-Petersen, publicly described Haradinaj as his friend. Several potential witnesses in this case died under controversial circumstances, while several of the key witnesses, according to the estimate of the Office of the Prosecutor of the Tribunal, declined to testify before the Tribunal in fear for their personal safety.

50. We additionally have to emphasize the fact that when the results of the Tribunal's practice are summarized it becomes clear that for the hundreds of thousands of Serbian refugees and the thousands dead and wounded, the Tribunal sentenced a few guards from prison camp Celebici in Bosnia and two Kosovo Albanians who were, as well, direct perpetrators of lower rank. We emphasize that Serbia has never asked for simulated symmetry in relation to the Tribunal's indictments and judgments. However, exactly this result builds suspicion that justice in the Tribunal's proceedings has been selective, while it is clear that selective justice cannot be considered justice.

51. Regardless of all presented facts, the Republic of Serbia will not cease the cooperation with the Tribunal, but it will, however, reduce this process to the technical level. This actually means that Serbia will continue to process requests for assistance that are coming from the Office of the Prosecutor of the Tribunal and legal defence teams that are related to access to documentation, archives and witnesses. Nevertheless, subsequent to this judgment, Serbia will not participate in the organization of seminars, conferences, round tables and educational programmes about the importance of the Tribunal's activities and its contribution to processes of facing the past.

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Security Council
Sixty-seventh year

Letter dated 6 December 2012 from the Permanent Representative of Serbia to the United Nations addressed to the Secretary-General

I have the honour to forward, enclosed herewith, the analysis of the proceedings against the accused Ante Gotovina, Ivan Cermak and Mladen Markac (annex I) and the analysis of the proceedings against the accused Ramush Haradinaj, Idriz Balaj and Lahi Brahimaj (annex II), prepared by the Office of the National Council of the Republic of Serbia for Cooperation with the International Criminal Tribunal for the Former Yugoslavia.

I should be grateful if you would have the present letter and its annexes circulated as a document of the General Assembly, under agenda item 73, and of the Security Council.

(*Signed*) Feodor **Starčević**

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Annexes to the letter dated 6 December 2012 from the Permanent Representative of Serbia to the United Nations addressed to the Secretary-General

Annex I

Proceedings against the accused Ante Gotovina, Ivan Cermak and Mladen Markac

1. According to the indictment of the Office of the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia against the accused Gotovina, Cermak and Markac of 12 March 2008, Croatia on 4 August 1995 commenced the military offensive *Oluja* with the aim of retaking the Krajina territory.

2. On 7 August 1995, the Government of Croatia stated that the operation had been "successfully completed".

3. The Office of the Prosecutor of the Tribunal charged the accused with perpetrating crimes against humanity, in accordance with the statute of the Tribunal, and war crimes (violations of the laws or customs of war) as participants in a joint criminal enterprise, the objective of which was the permanent removal of the Serb population from the Krajina region. The accused are charged with individual criminal responsibility in accordance with article 7(1) of the statute of the Tribunal and command responsibility in accordance with article 7(3) of the statute of the Tribunal.

4. The Tribunal's Trial Chamber, in its judgment of 15 April 2011, found Gotovina and Markac guilty as participants in the joint criminal enterprise, according to the indictment, for persecution, deportation, murder and inhumane acts as crimes against humanity in accordance with article 5 of the statute of the Tribunal and for plunder of public and private property, wanton destruction, murder and cruel treatment in violation of the laws or customs of war in accordance with article 3 of the statute of the Tribunal and sentenced Gotovina to 24 years' imprisonment and Markac to 18 years' imprisonment, while the accused Ivan Cermak was acquitted of all charges.

5. In the judgment, which numbers more than 1,400 pages, the Trial Chamber found that there was a joint criminal enterprise that came into existence no later than July 1995, the objective of which was the permanent removal of the Serbian population from Krajina by the use of force or threat of force. The Trial Chamber found that participants in this joint criminal enterprise, beside the accused, belonged to the political and military leadership of Croatia — Franjo Tudjman, President of Croatia, Gojko Susak, Minister of Defence, Zvonimir Cervenko, Chief of Staff of the Croatian army and others. As is emphasized in the Trial Chamber's judgment, Tudjman and high-ranking military officials discussed at the Brioni meeting how the military forces should be used to ensure that not only the Serb Krajina army, but also the Serb civilian population, would leave Krajina. The Trial Chamber found that Croatian military forces and special police were used to commit the crimes within the objective of the joint criminal enterprise.

6. The Trial Chamber found that shelling of Benkovac, Knin, Obrovac and Gracac on 4 and 5 August 1995 represented unlawful attacks on civilians and

civilian objects, which represented an important element in committing the joint criminal enterprise.

7. However, the Appeals Chamber of the International Criminal Tribunal for the Former Yugoslavia, composed of five judges and presided over by the President of the Tribunal, Judge Theodor Meron, reversed on 16 November 2012 the Trial Chamber judgment on Ante Gotovina and Mladen Markac and acquitted the accused of the crimes perpetrated during the Croatian forces' action *Oluja*. This judgment contains only 55 pages and was rendered by the outvoting of two of the Appeal Chamber judges by their three colleagues, accompanied by the fierce dissenting opinions of the two outvoted judges. Judge Fausto Pocar, former President of the Tribunal, emphasized that this verdict "contradicts any sense of justice" and described it as "grotesque". As well, Judge Agius, who was also in dissent with this judgment, used quite severe language in some parts of his dissenting opinion.

8. The Appeals Chamber decided, with the majority of the votes, that the Trial Chamber erred in its conclusion that all artillery impacts that were beyond 200 metres from military targets were unlawful. The Appeals Chamber found that this estimate of the Trial Chamber represented a cornerstone of the Trial Chamber's judgment in regard to the unlawful attacks on the towns in Krajina, with disregard, however, to the other reasons used by the Trial Chamber in its analysis that the artillery attacks were unlawful. The Appeals Chamber found that the 200-metre standard is arbitrary and devoid of any specific reasoning and concluded that without that standard there can be no unlawful attack on civilians, while without the unlawful attack on civilians there can be no joint criminal enterprise and, as a result, there is no guilt of the accused.

9. In this fashion, the Appeals Chamber did not fulfil its obligation in accordance with article 25 of the statute of the Tribunal and practice of the Tribunal that envisages that where the Appeals Chamber finds an error of law in the trial judgment arising from the application of an incorrect legal standard, the Appeals Chamber will articulate the correct legal standard and review the relevant factual findings of the trial chamber accordingly. More precisely, the Appeals Chamber, having concluded that the Trial Chamber had erred in its legal standard (according to which the Trial Chamber's "Impact Analysis" was premised on its conclusion that "a reasonable interpretation of the evidence" was that an artillery projectile fired by the Croatian Army which impacted within 200 metres of a legitimate target was deliberately fired at that target), had to define the correct legal standard, i.e., as Judge Pocar asks in his dissenting opinion, is the correct legal standard 400 metres, or maybe 1,000 metres or maybe 0 metres?

10. It is also interesting that the majority of the judges of the Appeals Chamber rejected in only three paragraphs of the appeals judgment the conclusions regarding unlawful shelling that were elaborated in the Trial Chamber's judgment of more than 200 pages. This approach enabled the Appeals Chamber to disregard the following facts listed in the Trial Chamber's judgment: that a large number of shells fell beyond 400 metres from any military target; that in one day approximately 1,000 shells fell on Knin alone, although no military resistance was coming from this city; that there are testimonies about the indiscriminate shelling, independently from the aforementioned 200-metre standard.

11. Judges Pocar and Agius state, contrary to the majority of the judges, that the conclusion of the Trial Chamber concerning the unlawful shelling is not, by any

circumstance, based exclusively on the allowed 200-metre margin of error, but on several mutually inclusive pieces of evidence that need to be considered in concert. The evidence in question includes transcripts from the Brioni meeting; Gotovina's order of 2 August 1995 in which he ordered the artillery to fire on the "Four Towns" in Krajina; evidence about the implementation of this order by the Croatian Army artillery; testimonies from the United Nations staff who were in Knin at the time; and the evidence of disproportionate shelling on the residence of Milan Martic. However, the majority of the Appeals Chamber judges simply quashed/disregarded the findings of the Trial Chamber as lacking the argumentative power to convince the objective spectator (or reasonable trier of fact) that artillery shellings were unlawful. In this manner, the Appeals Chamber, without any explanation, simply erased the conclusions of the Trial Chamber in regard to the evidence previously described.

12. The majority of judges of the Appeals Chamber obviously wrongfully stated some of the crucial evidence of the Trial Chamber, which leads to the conclusion that it could not have reviewed this evidence in a proper manner.

13. As an example of this we can use paragraph 87 of the Appeals Chamber judgment, which states in regard to the shelling of the Four Towns (Knin, Benkovac, Obrovac and Gracac) that "the Appeals Chamber, Judge Agius and Judge Pocar dissenting, considers that in the factual context of Operation Storm, the Trial Chamber considered unlawful artillery attacks to be the core indicator that the crime of deportation had taken place. Thus the Trial Chamber held that Serb civilians' departures from settlements at the same time as or in the immediate aftermath of artillery attacks only constituted deportation where these artillery attacks were found to have been unlawful". Here the Appeals Chamber considers paragraph 1755 of the Trial Chamber judgment, which, however, **does not pertain to deportation from the Four Towns that were shelled, but to entirely other locations.** To make things worse, in paragraph 1755 of the Trial Chamber judgment there **is no discussion about deportations existing only in cases when the artillery shellings were unlawful.** As Judge Pocar observes in his dissenting opinion, the Trial Chamber judgment in paragraph 1754, continuing in paragraph 1755, reconfirms its finding that it had been determining if the reason why the civilians had been leaving their homes was fear of shelling, and not the unlawfulness of this type of shelling.

14. In paragraph 91 of the judgment, in regard to the Trial Chamber's findings about the existence of the joint criminal enterprise, the Appeals Chamber considers that the "conclusion that a JCE [joint criminal enterprise] existed was based on its overall assessment of several mutually-reinforcing findings, but that its findings on the JCE's core common purpose of forcibly removing Serb civilians from the Krajina rested primarily on the existence of unlawful artillery attacks against civilians and civilian objects in the Four Towns". **In this manner, the majority of judges of the Appeals Chamber once again interpret the findings of the Trial Chamber by twisting the meaning of what is stated in the Trial Chamber's judgment.**

15. At the end, the interpretation of the Brioni transcripts offered by the majority of the judges of the Appeals Chamber and described by Judge Pocar as grotesque should be emphasized as well. More precisely, the majority of the judges in paragraph 93 of the Appeals Chamber judgment state: "Portions of the Brioni Transcript can be interpreted, absent the context of unlawful artillery attacks, as

inconclusive with respect to the existence of a JCE, reflecting, for example, a lawful consensus on helping civilians temporarily depart from an area of conflict for reasons including legitimate military advantage and casualty reduction." The idea that an objective spectator could reasonably conclude from the Brioni transcripts, which, among others, include the words of Tudjman that "now is our chance to hit the Serbs so hard that they will disappear from these parts", that at this meeting agreement was reached in regard to providing help to Serbian civilians to temporarily leave the area of conflict is truly grotesque and unbelievable and could not be, according to the existing practice of the Tribunal, accepted as reasonable.

16. In addition to all this, it was very strange that the majority of the judges of the Appeals Chamber of the Tribunal, which was established by the United Nations, has so little trust in generals and other officials of high rank coming from the United Nations Member States, who were on the ground under the United Nations flag during the time of the events that were the subject of the Trial Chamber's decision and who gave their testimonies in relation to these events before the Trial Chamber.

17. When we talk about the effects of this judgment it is clear that the Tribunal has not sentenced and will not sentence anyone for more than 1,500 Serbs from Croatia killed and for more than 200,000 Serbs from Croatia forced to leave their homes, as well as for various other crimes committed against the civilian population in the action *Oluja*. This judgment not only failed to bring justice to the victims, but also, it could be stated, worsened sore spots and brought new pain to the victims and their families.

18. In closing, we would like to emphasize that for the purposes of these proceedings, the Republic of Serbia replied to all requests for assistance from the Office of the Prosecutor of the Tribunal. On the other hand, although the artillery diaries had been discussed for a long time as quite important for proving the indictment in these proceedings, the Republic of Croatia did not provide this documentation to the Tribunal, while the Tribunal receded from its request.

Annex II

Proceedings against the accused Ramush Haradinaj, Idriz Balaj and Lahi Brahimaj

1. On 4 March 2005, the International Criminal Tribunal for the Former Yugoslavia, Office of the Prosecutor, indicted the members of the so-called Kosovo Liberation Army (KLA) Ramush Haradinaj, Idriz Balaj and Lahi Brahimaj.

2. The initial indictment charged the accused with 37 counts of crimes against humanity and war crimes (violations of the laws and customs of war) in the period from March to September 1998, according to individual criminal responsibility and/or as co-perpetrators in a joint criminal enterprise, the purpose of which was to consolidate the total control of the so-called KLA over the Dukagjin Operational Zone by the unlawful removal and mistreatment of Serb civilians and by the mistreatment of Kosovar Albanians, Kosovar Roma/Egyptian civilians and other civilians, who were, or were perceived to have been, collaborating with Serbian forces or otherwise not supporting the so-called KLA. The Office of the Prosecutor did not, for reasons that are unknown, indict Ramush Haradinaj, Idriz Balaj and Lahi Brahimaj on the basis of command responsibility, regardless of the fact that the majority of the crimes for which they were indicted were perpetrated precisely at the commanding place of the so-called KLA in Jablanica.

3. The first proceedings that took place before the Trial Chamber in the period from 5 March 2007 to 3 April 2008, when the Trial Chamber rendered its judgment, were accompanied from the very beginning by incomprehensible mistakes by the Office of the Prosecutor and the acting Trial Chamber. This Trial Chamber allowed provisional release for Haradinaj and even his engagement in political activities, which represents a unique case in the Tribunal, even though at the time the Tribunal must have been aware of the fact that there was a problem in witness protection in relation to this case. The attitude of the representatives of the United Nations Interim Administration Mission in Kosovo (UNMIK) towards this case and the accused Haradinaj was very strange as well. In spite of the obvious problems, UNMIK offered guarantees for Haradinaj's provisional release, while the UNMIK chief at the time, Soren Jessen-Petersen, publicly spoke of Haradinaj as his friend. Taking into consideration the aforementioned, together with the fact that Carla Del Ponte, former Chief Prosecutor of the Tribunal, described in her book how the former chief of UNMIK, Soren Jessen-Petersen, and other UNMIK officials impeded cooperation with the Office of the Prosecutor of the Tribunal in these proceedings, the Republic of Serbia addressed the United Nations Secretary-General and, on several occasions, the officials of the Tribunal, with the request that these allegations be investigated.

4. In the end, it can be concluded that a number of potential witnesses in this case died under controversial circumstances, while some of the key witnesses, according to the estimate of the Office of the Prosecutor of the Tribunal, refused to testify before the Tribunal fearing for their personal safety (and it seems that this fear was reasonable).

5. On 3 April 2008, the Trial Chamber rendered its judgment: because of the lack of evidence, Ramush Haradinaj and Idriz Balaj were found not guilty on all counts of the indictment, while Lahi Brahimaj was sentenced to six years' imprisonment.

The acting Trial Chamber concluded that there was not enough evidence that crimes against humanity had been perpetrated since it was not convinced that the attacks on civilians were widespread and systematic, which is *conditio sine qua non* for the existence of crimes against humanity. Because of this, none of the accused was found responsible for this crime. On the other hand, the Trial Chamber concluded that murders and torture of civilians represent violation of the laws and customs of war. However, when deciding about the responsibility of the accused, the Trial Chamber concluded that there was not enough evidence in regard to the existence of the joint criminal enterprise. The Trial Chamber found Lahi Brahimaj guilty on the basis of individual criminal responsibility for cruel treatment and torture and sentenced him to six years' imprisonment.

6. On 21 July 2010, the Appeals Chamber of the Tribunal partially granted the prosecution's appeal and dismissed the appeal of the accused Brahimaj. The Appeals Chamber quashed the Trial Chamber's decisions in regard to six out of 37 counts of the indictment. More precisely, the accused Ramush Haradinaj and Idriz Balaj were found not guilty in regard to 31 counts of the initial indictment in the Appeals judgment and they will not stand trial for the crimes listed in these counts ever again.

7. The accused were charged with six counts of crimes of violation of the laws and customs of war. More precisely, the accused were charged for the deaths of only eight people[a] (seven murders and one death that occurred as a consequence of beating) and the torture of a number of individuals. The fact that is not the most important one, but that still is quite significant, is that only two of the eight victims were of Serbian nationality.[b] All events included in the revised indictment pertain to the period from 19 May 1998 to the end of July 1998.

8. The retrial of Haradinaj, Balaj and Brahimaj commenced on 18 August 2011 before the new Trial Chamber (with Judge Moloto presiding, while the Presiding Judge of the Trial Chamber in the first proceedings was Judge Alphons Orie). During the retrial, 12 witnesses for the prosecution testified before the Trial Chamber, while the testimonies of 44 witnesses were provided in written form.

9. It should be emphasized that the first witness who appeared before the Trial Chamber during the retrial was Shefqet Kabashi, former member of KLA, who was arrested in the United States of America and transferred to the Tribunal. The prosecution had high expectations of this witness, who was, to some extent and together with other witnesses, one of the reasons that the proceedings entered the retrial. However, this witness refused to testify. Kabashi asked the acting Prosecutor how he could trust him, knowing that those who committed crimes in Kosovo walked free, and the witnesses who spoke about their crimes had been "killed or disappeared". Kabashi added that he was still alive only by chance ("fortunately, I am still alive") and remained determined in his decision not to testify. The prosecution suggested that his previous statements from 2005 from the proceedings

[a] Although the number of eight individuals is tragic enough, the expression of "only eight" that is used in this text serves the purpose of emphasizing that the so-called KLA is responsible, without a doubt, for the deaths of more individuals than eight in the territory where it acted as an armed formation under the command of Ramush Haradinaj.

[b] Ivan Zaric, who was murdered on 19 May 1998 or around that date as stated in count 1 of the indictment, together with Agron Berisa and Burimi Bejtu, as well as the policeman Nenad Remistar, who, as stated in count 4 of the indictment, was murdered on 13 or 14 June 1998.

Prosecutor v. Limaj and others be admitted into evidence, which was approved by the Trial Chamber. At the end and because of his refusal to testify, Kabashi was found guilty of contempt and was sentenced to two months' imprisonment. The Trial Chamber of the International Criminal Tribunal rendered a judgment on 29 November 2012 and acquitted all of the accused of six counts of the indictment. In addition, the Trial Chamber stated that some of the crimes from counts 3, 4, 5 and 6 of the indictment had been perpetrated, but that there was not enough evidence for the accused to be found guilty of those crimes. As well, the Trial Chamber found in its judgment that the allegations on joint criminal enterprise were not substantiated.

Problems with witnesses

10. In its judgment of 3 March 2008, the first Trial Chamber particularly discussed the apparent problem with the witnesses. More precisely, the judgment states that the Trial Chamber faced significant difficulties in obtaining testimonies from a number of the witnesses. Many of them stated fear as an important motive for their absence from the court. In regard to this, the Trial Chamber gained the strong impression that the trial was held in an atmosphere in which the witnesses did not feel safe because of the list of reasons explained in the judgment. Moreover, as stated in the judgment, parties to the proceedings agreed that there existed an unstable security situation in Kosovo, which was particularly unfavourable in relation to the witnesses.

11. Taking into consideration the problems of provision of testimonies, certain measures of protection were granted for 34 witnesses. In addition, 18 subpoenas were issued in relation to the witnesses who were determined not to testify, even though they were granted measures of protection. Four subpoenas of the Trial Chamber were not served. In one of these cases, the witness decided to testify via video link. In two other cases, the Trial Chamber affirmed the indictments for contempt of the International Court. These witnesses were arrested and transferred to The Hague. Both witnesses had decided to give their statements before coming to the court for contempt of court. After both of the witnesses gave their statements, contempt charges were dismissed. In regard to the fourth witness who did not comply with the subpoena, the Trial Chamber undertook various measures in order to obtain his statement, including the extension of the deadline that was approved for the prosecutor to present the new evidence. However, this witness did not appear before the Court. The prosecutor requested three additional subpoenas, which the Trial Chamber did not approve.

12. Two of the witnesses came before the acting Trial Chamber without subpoenas, but refused to testify when invited. One of them, Shefqet Kabashi, left the Netherlands before the start of the trial and returned to his place of residence in the United States.

13. One of the witnesses who was subpoenaed, witness number 55, started his testimony, only to state that he was under great stress and in fear for his safety and that, as a consequence, he could not complete the testimony. Following consultations with the Victims and Witnesses Section of the Tribunal and the physical examination of the witness, the Trial Chamber concluded that it would be not in the interest of justice to continue with the testimony of witness number 55.

14. In addition to everything aforementioned, we would like to recall that Shefqet Kabashi, former member of KLA, who was selected as a key witness of the

prosecution, refused to testify during the retrial and was willing to endure two months of imprisonment in the Detention Unit, where he was detained for contempt.

15. It should be emphasized as well that the data of the Republic of Serbia's national jurisdiction show that 19 potential witnesses, i.e., individuals who had some knowledge of the crimes for which the accused were charged in these proceedings, were murdered.

16. On the other hand, officials of the Tribunal assert that not one person from the list of the Tribunal's witnesses or individuals who were granted measures of protection by the Tribunal in the proceedings *Prosecutor v. Haradinaj and others* were murdered.

17. Taking all of the aforementioned into account it could be concluded that the *Haradinaj and others* case will be remembered as one of the Tribunal's cases that was conducted in the worst manner, as a consequence of which the individuals accused of (and probably responsible for) grave crimes against the civilian population were acquitted for procedural reasons, i.e., for insufficient evidence.

18. The Republic of Serbia absolutely cooperated with the Tribunal's prosecution in this case and provided to the prosecution all of the requested documents that were in possession of Serbia and gave waivers to the witnesses requested by the prosecution.

United Nations A/67/628–S/2012/917

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Security Council

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General Assembly
Sixty-seventh session
Agenda items 94 (dd) and 105

Security Council
Sixty-seventh year

General and complete disarmament: measures to prevent terrorists from acquiring weapons of mass destruction

Measures to eliminate international terrorism

Identical letters dated 8 December 2012 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General and the President of the Security Council

On instructions from the Government of the Syrian Arab Republic, I draw your attention to the following information:

In the course of this year, the American administration has persistently waged a campaign alleging that Syria could use chemical weapons in the current crisis. We have repeatedly stated publicly and through diplomatic channels that Syria will not under any circumstances use any chemical weapons that it may have, because it is defending its people from terrorists backed by well-known States, at the forefront of which is the United States of America.

The media reports that have been circulating give cause for concern. We are genuinely worried that certain States that support terrorism and terrorists could provide the armed terrorist groups with chemical weapons, and then claim they had been used by the Syrian Government. The Turkish newspaper *Yurt* has reported that Al-Qaida members are producing chemical weapons in a laboratory near the Turkish city of Gaziantep that they are threatening to use against Syrian civilians. *Yurt* has drawn attention to videos posted on the Internet demonstrating how to make poison gas from such chemicals as Al-Qaida has obtained from Turkish companies and tested on living creatures. It would be more appropriate for the States leading the campaign against Syria to monitor those actions and prosecute the terrorist perpetrators and the parties that facilitated their access to chemicals.

The Government of the Syrian Arab Republic also wishes to state that, in order to protect its people, it requested the United Nations Supervision Mission in the Syrian Arab Republic (UNSMIS), when it was active in Syria, to visit a private-sector chlorine laboratory east of Aleppo in order to inspect and secure the contents, which terrorist groups were planning to bring under their control. However,

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UNSMIS was unable to visit the facility because its team came under fire from terrorist groups. The facility, which contains tons of toxic chlorine, was recently seized by terrorist groups. The fact that they did so during this latest American and Western campaign means that the situation is all the more dangerous.

The Government of the Syrian Arab Republic warns that the terrorist groups could use those weapons against the Syrian people. It regrets that the international community has not taken action to address these developments and hold the terrorist groups' supporters accountable under the relevant Security Council resolutions.

The campaign against Syria is characterized first and foremost by its amorality. States such as the United States of America that have used chemical and similar weapons are in no position to launch such a campaign, particularly because, in 2003, they used the pretext of Iraq having weapons of mass destruction in order to justify their invasion and occupation of that Arab country. Since the issue was raised, Syria has stated countless times that it will not under any circumstances use any chemical weapons that it may have against its own people. It has also emphasized its adherence to its legal obligations under the conventions and protocols that it has ratified. Indeed, the Syrian Arab Republic submitted a draft resolution to the Security Council in late 2003 concerning ridding the Middle East of chemical, nuclear and biological weapons of mass destruction. However, the United States of America and its satellite States obstructed the draft resolution and resisted its adoption by the Council. Syria is therefore not surprised that, only a few days ago, the United States of America thwarted a United Nations initiative to hold a conference by the end of 2012 on the establishment of a zone free of nuclear weapons and all other weapons of mass destruction in the Middle East. Its aim was to defend Israel, the only party in the region that has not signed the conventions on weapons of mass destruction.

These campaigns will prove futile, as Syria has always cherished its independence and sovereignty. Scurrilous media campaigns cannot mislead our people or world public opinion, which has gradually come to realize the truth of the conspiracies against Syria and the true reasons behind the continuing bloodshed, for which the terrorist groups and their supporters will be held responsible by the world and by history.

I should be grateful if this letter could be issued as a document of the General Assembly, under agenda items 94 (dd) and 105, and of the Security Council.

(*Signed*) Bashar **Ja'afari**
Ambassador
Permanent Representative

United Nations A/67/629–S/2012/919

General Assembly
Security Council

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General Assembly
Sixty-seventh session
Agenda item 43
Question of Cyprus

Security Council
Sixty-seventh year

Letter dated 4 December 2012 from the Chargé d'affaires a.i. of the Permanent Mission of Turkey to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a letter dated 30 November 2012 addressed to you, from the Representative of the Turkish Republic of Northern Cyprus, Mr. Mehmet Dânâ (see annex).

I would be grateful if the text of the present letter and its annex could be circulated as a document of the General Assembly, under agenda item 43, and of the Security Council.

(*Signed*) Hüseyin **Müftüoğlu**
Deputy Permanent Representative
Chargé d'affaires a.i.

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Annex to the letter dated 4 December 2012 from the Chargé d'affaires a.i. of the Permanent Mission of Turkey to the United Nations addressed to the Secretary-General

I have the honour to refer to the statement made by the representative of the Greek Cypriot administration at a meeting of the Third Committee on 8 November 2012, under agenda items 69 (b) and 69 (c), entitled "Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms" and "Human rights situations and reports of special rapporteurs and representatives", respectively, which contain false allegations against the Turkish Republic of Northern Cyprus and Turkey. Since the Greek Cypriot side is utilizing every opportunity to distort facts pertaining to the question of Cyprus in every international forum where the Turkish Cypriot side is unjustly denied representation, I am compelled to respond, once again, in writing in order to set the record straight.

Throughout the many years following the Greek Cypriot destruction, in 1963, of the 1960 partnership Republic of Cyprus, the Greek Cypriot side has managed to misinform the international community and to portray the Cyprus problem as one of "invasion" and "occupation", while disguising the suffering and unjust isolation inflicted on the Turkish Cypriot people. The restrictions imposed by the Greek Cypriot side violating the basic human rights of Turkish Cypriots in various fields, such as the rights to freely trade and travel, and to participate in sports competitions, cultural events and educational schemes, are continuing, and efforts to remedy this situation by various parties are still impeded by the Greek Cypriot side. As a matter of fact, none of the Security Council resolutions describe the legitimate and justified Turkish intervention of 1974, undertaken in accordance with the Treaty of Guarantee of 1960, as "invasion", or the subsequent presence of Turkish troops on the island as "occupation". Such distortions are purely a Greek Cypriot fabrication aimed at blurring the issue and confusing the innocent with the guilty. On this point, it is imperative to recall the dramatic statement made by Archbishop Makarios, the Greek Cypriot leader at the time, before the Security Council on 19 July 1974, in which he openly accused Greece, not Turkey, of invading and occupying Cyprus. His remarks, which came only four days after the Greek Cypriot coup of 15 July 1974, are well recorded in the annals of the United Nations and hardly require further elaboration.

During the years from 1963 to 1974, which the Greek Cypriot representative conveniently ignores, the Greek Cypriots, aided and encouraged by Greece, practised ethnic cleansing and inflicted terrorism and tyranny on innocent Turkish Cypriots, all in the name of enosis (annexation of the island to Greece). The attempt by Greek Cypriot officials to brush aside the 11-year-long ordeal of the Turkish Cypriots is, to say the least, outrageous. It shows their total insincerity and refusal to show any sign of remorse or an attitude conducive to reconciliation.

In fact, the Greek Cypriot side has rejected all of the United Nations settlement plans proposed to date, including the Annan plan of 2004, which provided concrete advantages to the Greek Cypriot side at the expense of the Turkish Cypriot people. Nevertheless, the Greek Cypriot side still has the audacity to complain about the current status quo in the island. In this regard, the

observations of the then Secretary-General, following the Greek Cypriot rejection of the Annan plan, must be remembered:[a]

> The rejection of such a plan by the Greek Cypriot electorate is a major setback. What was rejected was the solution itself rather than a mere blueprint. Benefits for the Greek Cypriots which have been sought for decades — including the reunification of Cyprus, the return of a large swathe of territory, the return of most displaced persons to their homes (including a majority, some 120,000, under Greek Cypriot administration), the withdrawal of all troops not permitted by international treaties, the halting of further Turkish immigration and (if Greek Cypriot figures are accurate) the return to Turkey of a number of "settlers" — have been foregone.

The allegations of the Greek Cypriot representative of the so-called demographic changes in the Turkish Republic of Northern Cyprus through "continuous arrival of settlers from Turkey" are also totally unfounded and are only one aspect of the Greek Cypriot side's ongoing campaign of misinformation and propaganda aimed at distorting the facts and realities in Cyprus. It should be noted that the procedure through which citizenship is acquired in Northern Cyprus is similar to those widely applied throughout the world. It should also be noted in this regard that the Greek Cypriot administration has allowed the resettlement and employment of thousands of non-Greek Cypriot immigrants in Southern Cyprus in addition to its citizens originating from Greece, in accordance with its own legislation. It should be also underlined that the Greek Cypriot policy of naming Turkish Cypriot citizens originating from Turkey and their descendants as "settlers", constitutes clear discrimination against our people on the grounds of ethnicity and place of birth and it is thus totally unacceptable.

In this context, it should be also noted that the Turkish Republic of Northern Cyprus conducted a population census on 4 December 2011 with the participation of seven experts from the United Nations Population Fund. Results of the census show that the de facto population of Northern Cyprus is 294,906, indicating an 11.2 per cent increase in population over the five-year period following the previous census in 2006, which yielded a figure of 265,000. Following the census in the North, representatives from the United Nations have expressed their satisfaction with the results in terms of methodology and transparency and the way in which the Turkish Republic of Northern Cyprus population census was conducted in general.

Similarly, a population census was also held in South Cyprus in October 2011, results of which indicate a de facto population of 838,897: a 21.7 per cent increase over the results of the previous census held in 2001, which produced a population figure of 689,565. Comparatively, these results show that the populations of the two peoples have increased proportionally to one another, discrediting the oft-repeated Greek Cypriot allegation that there has been a population transfer to Northern Cyprus from Turkey or elsewhere.

Contrary to the Greek Cypriot representative's allegations, the history of human rights violations in Cyprus goes back a long time. Parallel to that, the issue of "refugees" or "internally displaced persons" arose when one fourth of the Turkish Cypriot population was rendered homeless as from December 1963 when Turkish

[a] See report of the Secretary-General on his mission of good offices in Cyprus (S/2004/437) of 28 May 2004, para. 83.

Cypriots had to flee for their lives as a result of the Greek Cypriot onslaught. It is true that many Turkish Cypriots as well as Greek Cypriots were displaced in 1974 as a result of the Greek coup d'état and its aftermath. It is equally true, however, that the question of displaced persons was settled through the Voluntary Exchange of Populations Agreement reached between the two sides at the third round of talks, held in Vienna in 1975. The Agreement was implemented under the supervision of the United Nations Peacekeeping Force in Cyprus and both the Agreement and its implementation are well recorded in relevant United Nations documents (S/11789 of 5 August 1975 and S/11789/Add.1 of 10 September 1975).

With respect to the so-called enclaves in the Turkish Republic of Northern Cyprus, I wish to remind the Greek Cypriot representative that the term "enclaved" was first used by the Secretary-General to describe the plight, between 1963 and 1974, of the Turkish Cypriots who had been squeezed by the Greek Cypriots into small pockets scattered around the island. The total area of the Turkish Cypriot enclaves was a mere 3 per cent of the territory of the island. Since 1974, the Greek Cypriot side has attempted to "hijack" this term to misrepresent the living conditions of the Greek Cypriots and Maronites residing in the Turkish Republic of Northern Cyprus, purely for propaganda purposes.

In fact, the Greek Cypriots who chose to stay in North Cyprus after the 1975 Voluntary Exchange of Populations Agreement enjoy all the rights and freedoms that are enjoyed by the citizens of the Turkish Republic of Northern Cyprus. Their living conditions are on a par with those of the Turkish Cypriots living in the same area. All the Greek Cypriots who opted to cross to South Cyprus over the years have been interviewed exclusively by the United Nations Peacekeeping Force in Cyprus which confirmed that the transfer was voluntary and not the response to any sort of oppressive policies or restrictions. In spite of these recorded realities, the Greek Cypriot administration chooses to exploit the existence of the Greek Cypriot residents in the Turkish Republic of Northern Cyprus as a propaganda tool for slandering the Turkish Cypriot authorities and Turkey.

It is also important to recall, in this context, that it was the Turkish Cypriot side that took an important initiative on 23 April 2003 and unilaterally opened the border to crossings between North and South Cyprus. This was a bold move by the Turkish Cypriot side towards creating the necessary atmosphere for reconciliation. More recently, the Turkish Cypriot side has proved its goodwill once again and enabled the opening of the Yeşilırmak/Limnitis gate in October 2010 in addition to the already existing crossing points. It is known by all concerned that the opening of the Yeşilırmak/Limnitis gate has provided predominantly for the easy access of the Greek Cypriots living in that region to South Nicosia, as they can directly cross from their place of residence to North Cyprus.

As regards the work of the Committee on Missing Persons, I would like to reiterate the commitment of the Turkish Cypriot side to the work carried out by the Committee in line with the mandate agreed by the two sides under the auspices of the Secretary-General. Owing to the sincere commitment and cooperation of the relevant Turkish Republic of Northern Cyprus authorities, as of August 2012, the Committee on Missing Persons, after carrying out exhumations at 609 sites on both sides of the island, has found the remains of 895 persons. To this date, 269 Greek Cypriot and 67 Turkish Cypriot remains have been successfully exhumed, identified and returned to their families. As regards the claim to the effect that the

Committee's access to military areas in the north has been restricted, it should be noted that the Turkish Cypriot authorities have been facilitating the Committee's access to all relevant areas, including military zones in Northern Cyprus. Accordingly, as recorded in paragraph 28 of your report on the United Nations operation in Cyprus of 28 May 2010 (S/2010/264), the Turkish Cypriot side has "granted access to four new exhumation sites located in military areas in the north". It should be also noted in this regard that permission has recently been granted to the Committee for exhumation in a military area in Northern Cyprus in 2012. Thus, allegations to the effect that access to military areas in the North has been restricted are unwarranted and totally undermine the cooperative approach of the Turkish Cypriot side in this matter.

One of the most fundamental issues of the Cyprus question is that of property. The property issue in Cyprus first arose not in 1974 but in 1963, when the Turkish Cypriots were forced to abandon their homes at gunpoint and took refuge in what came to be known as Turkish Cypriot enclaves. It should be stressed that it is not only the Greek Cypriots who left immovable property, in the North but also the Turkish Cypriots who had to abandon a considerable amount of property in the South as well, most of which was confiscated by the Greek Cypriot administration, leaving no possibility for restitution and/or compensation to the Turkish Cypriots for the use and enjoyment of their properties. Instead of seeking to resolve the issue with the Turkish Cypriot side in accordance with established parameters, the Greek Cypriot side has, over the years, encouraged recourse to the European Court of Human Rights in a bid to bring the issue to the European platform.

We, as the Turkish Cypriot side, have always adopted a fair approach to the issue of property. The status of property left by the Greek Cypriots is defined clearly by the relevant clauses of the Constitution of the Turkish Republic of Northern Cyprus. The sole legitimate authority in matters related to ownership of land and property within the boundaries of North Cyprus is the Government of the Turkish Republic of Northern Cyprus, elected under and by virtue of the Constitution. The Turkish Cypriot side never denied the inalienable right to property and thus, on the basis of the guidelines suggested by the European Court of Human Rights, the Legislative Assembly of the Turkish Republic of Northern Cyprus enacted the Law for the Compensation, Exchange and Restitution of Immovable Properties.

In accordance with this Law, the Immovable Property Commission was established on 22 March 2006 with a view to providing an effective domestic remedy, namely restitution, compensation and exchange, for claims related to abandoned properties in Northern Cyprus. In this context, it is important to note that, on 1 March 2010, the Grand Chamber of the European Court of Human Rights concluded that the case of *Demopoulos v. Turkey* was inadmissible and ruled, inter alia, that the Immovable Property Commission "provides an accessible and effective framework of redress in respect of complaints about interference with the property owned by Greek Cypriots". It has thus been legally acknowledged that the Commission provides an effective domestic remedy for Greek Cypriot claims related to properties in North Cyprus. It also needs to be stressed that the above-mentioned decision of the European Court of Human Rights came after a series of other cases involving individual claims on property had been brought before the Court by the Greek Cypriot side. The decision also served as a clear message to the Greek Cypriot administration that, in the case of Cyprus, issues related to property

need to be resolved domestically and taking into account the special circumstances of the island.

It is clear from the jurisprudence of the European Court of Human Rights noted above that Greek Cypriots are not without remedies, and that they can apply to the Immovable Property Commission for restitution, compensation and exchange which are being assessed on the basis of criteria established by the Court. Despite the ill-intentioned attempts of the Greek Cypriot administration to deter Greek Cypriots from applying to the Commission, as of 30 November 2012, 4,157 applications had been lodged with the Commission, of which 310 have been concluded. The Commission has paid over 93 million British pounds to the applicants as compensation. It should also be noted that the Greek Cypriot administration continues to disseminate false and misleading information, particularly by portraying the issue as solely affecting the Greek Cypriot people. In reality, long before it became a problem for the Greek Cypriots, the issue of property had been affecting the Turkish Cypriot people, thousands of whom were forced to leave their homes and properties between 1963 and 1974, as a result of Greek Cypriot armed attacks. As is known, the reciprocal property claims of the two sides constitute one of the major topics of discussion in the negotiating process involving the two sides, which has been conducted since 1968 under the auspices of the United Nations.

The policies of the Greek Cypriot administration vis-à-vis the Turkish Cypriot properties left in the South are in total contradiction with its professed role of "champion" of ownership rights in Cyprus. Following its hijacking of the partnership government in 1963, the Greek Cypriot administration unilaterally enacted a series of laws designed to regulate and control Turkish Cypriot-owned land and properties located in South Cyprus. Accordingly, the major part of Turkish Cypriot land and properties was allocated to Greek Cypriots and the remaining land and properties have been and are still being acquired on a compulsory basis by the Greek Cypriot authorities. In line with its so-called guardianship regulations, no compensation has ever been paid to the Turkish Cypriot owners, who for all practical purposes are being told through Greek Cypriot court decisions to await the final settlement of the Cyprus question. It should be duly noted that the Greek Cypriot side has failed to propose any mechanism, similar to the Immovable Property Commission in the North, for handling the property claims.

As for the allegations regarding the so-called destruction of the cultural heritage in North Cyprus, I would like to emphasize that protection of the island's cultural heritage is of great importance to the Turkish Cypriot side, since the cultural heritage of Cyprus, whether in the North or in the South, derives from the diverse and rich cultures of the civilizations that have populated the island throughout history. It is the common heritage of humanity, regardless of its origin, and should be protected and preserved.

In this respect, since 2006, 15 Greek Orthodox churches have been restored by our authorities, and other projects of restoration, of churches, mosques, monasteries and other monuments, have been undertaken with the collaboration of the United Nations Development Programme Partnership for the Future programme and the UNDP Action for Cooperation and Trust in Cyprus. Restoration work on some other churches and monasteries are currently under way with the support of the Action for Cooperation and Truth and the Government of the United States of America. In the

last three years alone, almost 400,000 United States dollars have been spent by the Turkish Republic of Northern Cyprus authorities on cultural heritage restoration projects, in addition to the funds made available by the European Union and USAID.

It is also worth mentioning at this point that the 21 March 2008 agreement reached between the Greek Cypriot and Turkish Cypriot sides has paved the way for the establishment of the Technical Committee on Cultural Heritage, among others, which has provided a significant impetus for the protection of the rich and varied cultural heritage of the island. In line with the mandate given to it, since May 2008, the Technical Committee has held more than 145 meetings and has made close to 300 on-site visits to the cultural heritage monuments on both sides of the island.

On the other hand, the Greek Cypriot administration of Southern Cyprus has shown utter contempt for the Turkish-Muslim heritage in Southern Cyprus, where cultural and religious monuments, including mosques, baths, fountains and cemeteries, are under threat of destruction. I will mention here merely that hundreds of Turkish Cypriot villages, together with their mosques, have been razed to the ground since 1963. While claiming to care very much for the cultural heritage of the island, the Greek Cypriot administration at the same time attempts to block, often with success, initiatives of the Turkish Cypriot authorities to receive funds from international institutions and third parties for the protection of the cultural heritage in North Cyprus, where most of the cultural monuments are located.

Against this background, it is clear that the slanderous remarks of the Greek Cypriot representative against Turkey are not corroborated by the legal and historical facts concerning the island. Thus, instead of levelling unfounded accusations against Turkey in order to play the role of the victim in Cyprus, the Greek Cypriot administration, cognizant of the fact that its counterpart is the Turkish Cypriot side, is expected to adopt a more positive approach within the context of the efforts carried out for a fair and durable comprehensive settlement in Cyprus under your mission of good offices.

(*Signed*) Mehmet **Dânâ**
Representative
Turkish Republic of Northern Cyprus

United Nations A/67/630

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Sixty-seventh session
Agenda item 146
Administrative and budgetary aspects of the financing of the United Nations peacekeeping operations

Updated financial position of closed peacekeeping missions as at 30 June 2012

Report of the Secretary-General

Summary

The present report provides information on the updated financial position of 24 closed peacekeeping missions as at 30 June 2012. Five missions had cash deficits owing to outstanding payments of assessed contributions, while nineteen had cash surpluses available for credit to Member States totalling $28.2 million.

For the 19 missions with cash surpluses, the Secretary-General recommends the retention of the surplus cash in order to provide liquidity for the active peacekeeping missions in the light of the recent experience of cross-borrowing from the closed peacekeeping missions.

As regards the five missions with cash deficits, the Secretary-General proposed in his report on the updated financial position of closed peacekeeping missions as at 30 June 2011 (A/66/665) some options for the consideration of the General Assembly, in order to address the issue of outstanding dues to Member States, as requested by the Assembly in its resolution 65/293.

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I. Introduction

1. The present report provides updated information on the financial position of the following closed peacekeeping missions for which final performance reports have been issued: Military Observer Group of the United Nations Verification Mission in Guatemala (MINUGUA); United Nations Mission in the Central African Republic (MINURCA); United Nations Operation in Burundi (ONUB); United Nations Observer Group in Central America (ONUCA) and United Nations Observer Mission in El Salvador (ONUSAL); United Nations Operation in Mozambique (ONUMOZ); United Nations Mission in Sierra Leone (UNAMSIL) and United Nations Observer Mission in Sierra Leone (UNOMSIL); United Nations Angola Verification Mission (UNAVEM) and United Nations Observer Mission in Angola (MONUA); United Nations Iran-Iraq Military Observer Group (UNIIMOG); United Nations Iraq-Kuwait Observation Mission (UNIKOM); United Nations Mission in Ethiopia and Eritrea (UNMEE); United Nations Mission in Bosnia and Herzegovina (UNMIBH); United Nations Mission in Haiti (UNMIH); United Nations Military Liaison Team in Cambodia (UNMLT); United Nations Mission of Observers in Tajikistan (UNMOT); United Nations Observer Mission in Liberia (UNOMIL); United Nations Observer Mission Uganda-Rwanda (UNOMUR) and United Nations Assistance Mission for Rwanda (UNAMIR); United Nations Operation in Somalia (UNOSOM); United Nations Peace Forces (UNPF); United Nations Preventive Deployment Force (UNPREDEP); United Nations Support Mission in Haiti (UNSMIH), United Nations Transition Mission in Haiti (UNTMIH) and United Nations Civilian Police Mission in Haiti (MIPONUH); United Nations Transitional Authority in Cambodia (UNTAC); United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES) and Civilian Police Support Group; United Nations Transitional Administration in East Timor (UNTAET) and United Nations Mission of Support in East Timor (UNMISET); and United Nations Transition Assistance Group (UNTAG).

2. As at 30 June 2012, 19 of the 24 peacekeeping missions covered in the present report had cash surpluses available for credit to Member States totalling $28,188,000 as set out in table 1.

Table 1

Consolidated net cash position of ONUB, ONUCA/ONUSAL, ONUMOZ, UNAMSIL/UNOMSIL, UNAVEM/MONUA, UNIIMOG, UNIKOM, UNMEE, UNMIBH, UNMIH, UNMLT, UNMOT, UNOMIL, UNOMUR/UNAMIR, UNPF, UNPREDEP, UNTAES/Civilian Police Support Group, UNTAET/UNMISET and UNTAG as at 30 June 2012

(Thousands of United States dollars)

Description	*Amount*
Cash assets	211 047
Less: other liabilities	182 859
Net cash available for credit to Member States as at 30 June 2012	**28 188**

3. The composition of the net cash balance of $28,188,000 is broken down by mission in table 2.

Table 2
Closed peacekeeping missions with net cash balances as at 30 June 2012
(Thousands of United States dollars)

Mission	*Amount*
ONUB	600
ONUCA/ONUSAL	134
ONUMOZ	31
UNAMSIL/UNOMSIL	718
UNAVEM/MONUA	6 382
UNIIMOG	134
UNIKOM	93
UNMEE	1 903
UNMIBH	503
UNMIH	1 814
UNMLT	4
UNMOT	91
UNOMIL	143
UNOMUR/UNAMIR	4 113
UNPF	8 791
UNPREDEP	361
UNTAES/Civilian Police Support Group	402
UNTAET/UNMISET	1 677
UNTAG	294
Total	**28 188**

4. The amount of $28,188,000 shown in tables 1 and 2 does not take into account $10,816,000 owed by two closed peacekeeping missions ($7,366,000 by UNSMIH/UNTMIH/MIPONUH and $3,450,000 by MINURCA) and another $51,000,000 owed by three active peacekeeping missions, including $16,500,000 by the United Nations Mission for the Referendum in Western Sahara (MINURSO), $31,500,000 by the United Nations Interim Administration Mission in Kosovo (UNMIK) and $3,000,000 by the United Nations Supervision Mission in the Syrian Arab Republic (UNSMIS), which remained unpaid as at 30 June 2012. As at 30 November 2012, the outstanding loans owed by active peacekeeping missions totalled $23,000,000 including $19,500,000 by UNMIK and $3,500,000 by MINURSO.

5. Five of the peacekeeping missions covered in the present report had cash deficits totalling $86,719,000 as at 30 June 2012, owing to outstanding payments of assessed contributions, as shown in table 3.

Table 3
Consolidated net cash position of the MINUGUA Military Observer Group, MINURCA, UNOSOM, UNSMIH/UNTMIH/MIPONUH and UNTAC as at 30 June 2012
(Thousands of United States dollars)

Category	*Amount*
Cash assets	490
Less: liabilities	87 209
Operating deficit as at 30 June 2012	**(86 719)**

6. The liabilities included loans amounting to $23,636,000 owed to closed peacekeeping missions ($10,816,000) and to the Peacekeeping Reserve Fund ($12,820,000). The operating deficit of $86,719,000 is broken down by mission in table 4.

Table 4
Closed peacekeeping missions with cash deficits as at 30 June 2012
(Thousands of United States dollars)

Mission	*Amount*
MINUGUA Military Observer Group	(125)
MINURCA	(23 822)
UNOSOM	(15 438)
UNSMIH/UNTMIH/MIPONUH	(7 275)
UNTAC	(40 059)
Total	**(86 719)**

II. Cash requirements of the Organization

7. As a result of the inherent unpredictability of receipts of assessed contributions, liquidity in peacekeeping missions is volatile, with cash surpluses of closed missions remaining the only source for alleviating the cash shortages for active peacekeeping operations. In accordance with financing resolutions of the General Assembly, notifications are issued to Member States for their assessed contributions to active peacekeeping missions up to the end of the mandate period for each mission as authorized by the Security Council. Experience has shown that there is a significant time lag, often ranging from about 60 to 120 days, between the issuance of notifications to Member States and the receipt of assessed contributions. Pending the payment of assessed contributions, any cash shortfalls for active missions have to be met from loans from closed peacekeeping missions.

8. As a result of outstanding assessments in the special accounts of some active missions, there has been a continuing need to borrow from closed missions. Cross-borrowing was required in the 2010/11 financial period for four active operations, namely, MINURSO, UNMIK, the United Nations Peacekeeping Force in Cyprus

(UNFICYP) and the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), for a total of $88.9 million. Cross-borrowing increased to $118 million in the 2011/12 financial period for seven active operations, namely, MINURSO, the United Nations Integrated Mission in Timor-Leste (UNMIT), UNFICYP, the United Nations Operation in Côte d'Ivoire (UNOCI), the United Nations Support Office for the African Union Mission in Somalia (UNSOA), UNMIK and UNSMIS. Additional cross-borrowing of $11 million from the accounts of closed peacekeeping operations has been required so far during the 2012/13 financial period for three active missions, namely MINURSO, UNMIK and UNSMIS. Furthermore, the amount required for cross-borrowing by active missions peaked during the 2011/12 financial period at $93 million in September 2011 and during the first five months of the current period at $62 million in July 2012. Borrowings, settlements and peak levels of borrowing from July 2008 to November 2012 are reflected in annexes III and IV.

9. In the light of the reduced net cash balance available for return to Member States as at 30 June 2012, compared to 30 June 2010, and the recent experience of significant peak levels of borrowing, it is proposed to retain the net cash balance of $28.2 million available in 19 closed missions as at 30 June 2012. This net cash balance, combined with the $51 million borrowed by active missions as at 30 June 2012, can provide $79.2 million of cross-borrowing capacity to manage cash shortfalls in active peacekeeping operations.

III. Outstanding dues to Member States in cash deficit missions

10. As requested by the General Assembly in its resolution 65/293, the Secretary-General made proposals in his report on the updated financial position of closed peacekeeping missions as at 30 June 2011 (A/66/665) to address the issue of outstanding dues to Member States from closed peacekeeping missions with net cash deficits.

11. As at 30 June 2011 and 30 June 2012, $63.1 million was owed to troop- and police-contributing countries by closed peacekeeping missions with cash deficits. The Secretary-General had proposed either to borrow, or to transfer permanently, a portion of the unencumbered balance and other income of the special account for the African Union-United Nations Hybrid Operation in Darfur (UNAMID) as at 30 June 2011 to the closed peacekeeping missions with cash deficits in order to settle the $63.1 million owed to troop- and police-contributing countries (A/66/665, paras. 13-14). As at 30 June 2012, the unencumbered balance and other income of the special account of UNAMID amounted to $150.4 million.

IV. Actions to be taken by the General Assembly

12. **The actions to be taken by the General Assembly are:**

(a) **To take note of the present report;**

(b) **To approve the retention of the net cash balance of $28.2 million available in 19 closed peacekeeping missions in the light of the experience regarding cash requirements of the Organization during the 2011/12 and 2012/13 financial periods.**

Annex I

Unpaid assessments, accounts payable to Member States and other liabilities of closed peacekeeping missions as at 30 June 2012

(Thousands of United States dollars)

Mission	*Unpaid assessments*	*Accounts payable to Member States*[a]	*Other liabilities*
MINUGUA Military Observer Group	145	–	125
MINURCA	35 545	7 480	16 462
ONUB	785	1 677	24
ONUCA/ONUSAL	312	2 220	–
ONUMOZ	16 703	537	–
UNAMSIL/UNOMSIL	728	11 705	9
UNAVEM/MONUA	34 893	9 330	–
UNIIMOG	10	2 747	–
UNIKOM	520	1 876	–
UNMEE	154	8 434	57
UNMIBH	33 949	9 128	43
UNMIH	14	36 153	–
UNMLT	–	95	1
UNMOT	1	1 920	1
UNOMIL	4	3 001	–
UNOMUR/UNAMIR	1 328	10 109	5
UNOSOM	57 810	15 561	–
UNPF	137 825	58 210	7
UNPREDEP	1 238	9 349	–
UNSMIH/UNTMIH/MIPONUH	19 390	114	7 366
UNTAC	40 453	40 101	–
UNTAES/Civilian Police Support Group	8 725	8 798	–
UNTAET/UNMISET	27 363	4 159	–
UNTAG	15	3 229	–
Total	**417 910**	**245 967**	**24 101**

[a] Inclusive of amounts owed to troop-contributing countries for contingent-owned equipment, as well as credits to Member States from unencumbered balances pending instructions on their disposition.

Annex II

Outstanding claims in closed missions with cash deficits as at 30 June 2012

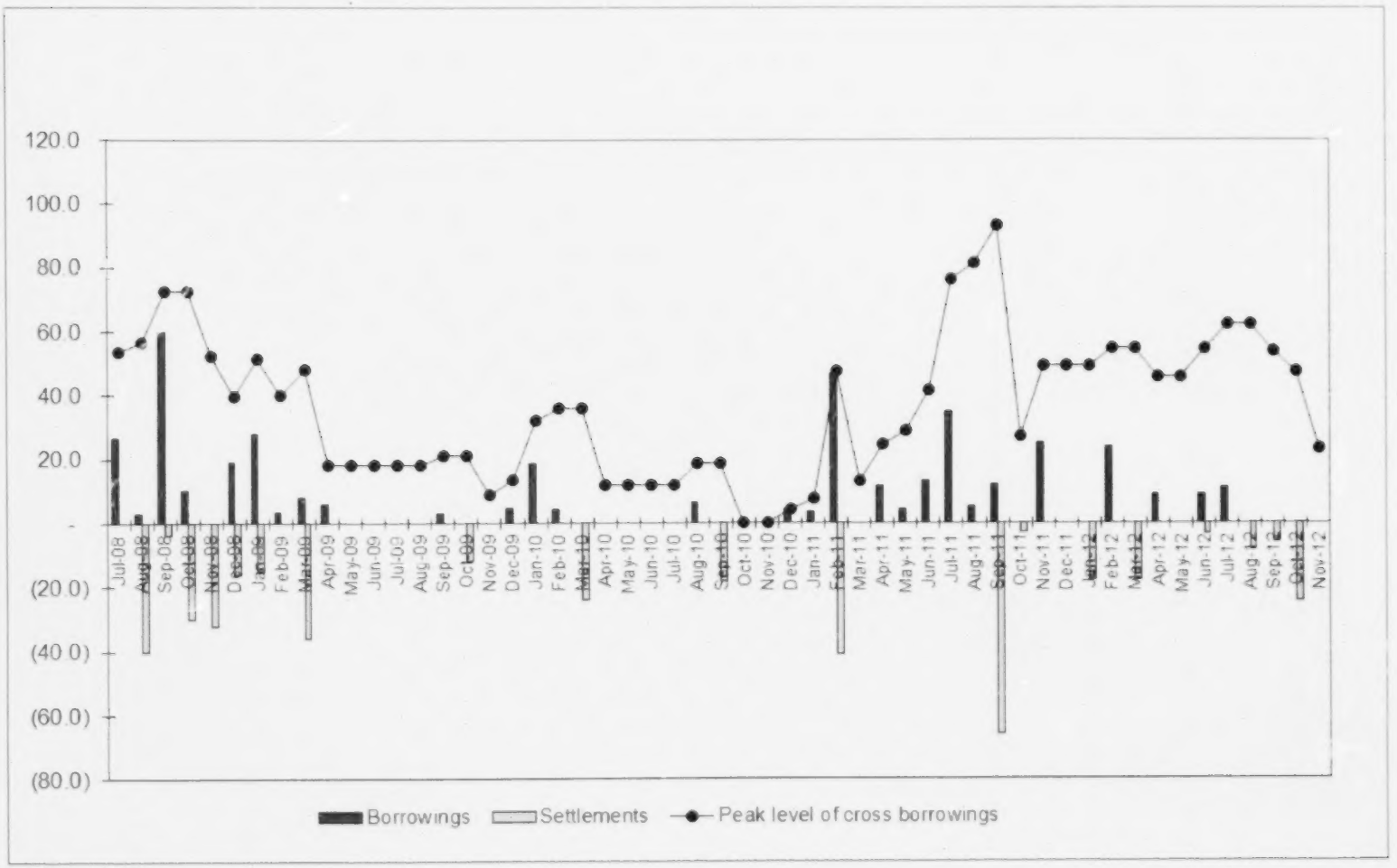
(Thousands of United States dollars)

	Contingent-owned equipment	*Letters of assist*	*Total*
MINURCA	7 477	3	**7 480**
UNOSOM	12 453	3 037	**15 490**
UNSMIH/UNTMIH/MIPONUH	–	114	**114**
UNTAC	21 910	18 086	**39 996**
Total	**41 840**	**21 240**	**63 080**

Annex III

Borrowings by active missions from closed peacekeeping missions, July 2008 to 16 October 2012

(Millions of United States dollars)



Annex IV

Borrowings, settlements and peak levels of cross-borrowing by active missions from closed missions for the period from 1 July 2008 to 30 November 2012

(Millions of United States dollars)

Month, year	*Borrowings*	*Settlements*	*Balance*	*Peak level*	*Month, year*	*Borrowings*	*Settlements*	*Balance*	*Peak level*	*Month, year*	*Borrowings*	*Settlements*	*Balance*	*Peak level*
July 2008	26.5	–	53.5	53.5	July 2010	–	–	12.0	12.0	July 2012	11.0	–	62.0	62.0
August 2008	3.0	(40.0)	16.5	56.5	August 2010	6.4	–	18.4	18.4	August 2012	–	(8.5)	53.5	62.0
September 2008	60.0	(4.0)	72.5	72.5	September 2010	–	(18.4)	–	18.4	September 2012	–	(6.0)	47.5	53.5
October 2008	10.0	(30.0)	52.5	72.5	October 2010	–	–	–	–	October 2012	–	(24.5)	23.0	47.5
November 2008	–	(32.0)	20.5	52.5	November 2010	–	–	–	–	November 2012	–	–	23.0	23.0
December 2008	19.0	(16.0)	23.5	39.5	December 2010	4.0	–	4.0	4.0					
January 2009	28.0	(15.0)	36.5	51.5	January 2011	3.5	–	7.5	7.5					
February 2009	3.5	–	40.0	40.0	February 2011	46.5	(41.0)	13.0	47.5					
March 2009	8.0	(36.0)	12.0	48.0	March 2011	–	–	13.0	13.0					
April 2009	6.0	–	18.0	18.0	April 2011	11.5	–	24.5	24.5					
May 2009	–	–	18.0	18.0	May 2011	4.0	–	28.5	28.5					
June 2009	–	–	18.0	18.0	June 2011	13.0	–	41.5	41.5					
July 2009	–	–	18.0	18.0	July 2011	34.5	–	76.0	76.0					
August 2009	–	–	18.0	18.0	August 2011	5.0	–	81.0	81.0					
September 2009	3.0	–	21.0	21.0	September 2011	12.0	(66.0)	27.0	93.0					
October 2009	–	(12.0)	9.0	21.0	October 2011	–	(3.0)	24.0	27.0					
November 2009	–	–	9.0	9.0	November 2011	25.0	–	49.0	49.0					
December 2009	4.5	–	13.5	13.5	December 2011	–	–	49.0	49.0					
January 2010	18.5	–	32.0	32.0	January 2012	–	(18.0)	31.0	49.0					
February 2010	4.0	–	36.0	36.0	February 2012	23.5	–	54.5	54.5					
March 2010	–	(24.0)	12.0	36.0	March 2012	–	(18.0)	36.5	54.5					
April 2010	–	–	12.0	12.0	April 2012	9.0	–	45.5	45.5					
May 2010	–	–	12.0	12.0	May 2012	–	–	45.5	45.5					
June 2010	–	–	12.0	12.0	June 2012	9.0	(3.5)	51.0	54.5					